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ABSTRACT

This is the record of a series of Congressional subcommittee hearings on the progress, problems, and effectiveness of desegregation efforts in public schools. Included are statements and testimonies of educators, social scientists, legal scholars, public officials, and parents on the relative advantages and disadvantages of various desegregation methods; the effects of school desegregation on educational programs, academic achievement, housing patterns, and white flight; methods of implementing desegregation plans; and related issues. Descriptions of actual experiences with school desegregation in different communities, the results of research, and journal and newspaper articles serve to provide background information and to support statements concerning the effects of and public attitudes toward school desegregation. Discussions among subcommittee members and witnesses are recorded verbatim. (MJL)

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SCHOOL DESEGREGATION

HEARINGS
BEFORE THE
SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS
OF THE
COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES
NINETY-SEVENTH CONGRESS
FIRST SESSION
ON
SCHOOL DESEGREGATION

SEPTEMBER 17, 21, 23, OCTOBER 7, 14, 19, 21, 29,
NOVEMBER 4 AND 19, 1981

Serial No. 26

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Printed for the Committee on the Judiciary

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SCHOOL DESEGREGATION

THURSDAY, SEPTEMBER 17, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met at 9 a.m. in room 2237 of the Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Kastenmeier, Washington, Hyde, Sensenbrenner and Lungren.

Staff present: Thomas M. Boyd, associate counsel and Janice Cooper, counsel.

Mr. Edwards. The subcommittee will come to order.

I recognize the gentleman from Illinois, Mr. Hyde.

Mr. Hyde. Mr. Chairman, I ask unanimous consent that the committee permit this meeting to be covered in full or in part by television broadcast, radio broadcast, and/or still photography, pursuant to rule V of the committee rules.

Mr. Edwards. Without objection, it is so ordered.

Today, we are going to begin hearings on one of the most important social challenges facing our society, the desegregation of our public schools.

Since the Supreme Court's epic 1954 decision, *Brown* v. *Board of Education,* we have slowly moved toward that goal. In some parts of the country, the success has been astonishing; in others, the difficulties have dominated the news.

It is now time for us to assess the progress and the problems, something the Congress and this committee has not attempted to do for 9 years. Misinformation and lack of information about the methods and effectiveness of school desegregation plans have fostered fear and resistance to change.

Hopefully, these hearings will make a major contribution toward correcting this situation. Toward this end, we will be seeking the views and expertise of those best equipped to do this—educators, social scientists, legal scholars, public officials, and parents.

The chairman of the Committee on the Judiciary, Mr. Rodino, had hoped to open these sessions, but a conflict in his schedule prevents him from being here today. He has submitted a fine statement, which, if there is no objection, will be made a part of the record.

[The complete statement follows:]

STATEMENT BY CHAIRMAN RODINO ON SCHOOL DESEGREGATION TO THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS

Mr. Chairman, I appreciate this opportunity to present this testimony as this Subcommittee embarks on hearings to gauge the achievements and identify the problems of school desegregation.

This committee last reviewed these issues in 1972, when 20 days of hearings were conducted. Much has happened since then, so it is appropriate and timely that this fresh examination be undertaken. Conflict continues over the merits and methods of school desegregation. This is clearly evident in the continuing flood of legislation and proposed constitutional amendments introduced in this Congress to prohibit busing to achieve school desegregation.

Of course, these proposals are not new. Recent legislative history is replete with examples of efforts by the Congress to ban busing. Yet, so far as I know, these efforts have not blocked the desegregation plan of a single school district.

The reasons for this, I think, are clear. The Supreme Court has repeatedly found busing to be an acceptable tool to dismantle systems in which there has been intentional, purposeful, unconstitutional school discrimination.

These desegregation plans were not the creations of social engineers bent on achieving "racial balance." Rather they were the work of conservative federal judges, mostly from the South, doing the best they knew how to protect the constitutional rights of children and to preserve harmony in their communities.

I happen to think they did a pretty fair job.

However, to be able to compile a fair and complete record on which the Congress can chart a wise and reasonable course, the Subcommittee must listen to all the conflicting views. So I anticipate you intend to hear from social scientists, educators and lawyers who have done extensive research on school desegregation. I am sure you will want to hear the diverse sentiments of members of Congress. And you will hear from school administrators, school board members, teachers and parents who have experienced school desegregation and will be able to tell the Subcommittee of its effects and effectiveness.

With this record in hand, the Congress then will have the facts required for making decisions.

In the course of this examination, it will be well to keep in mind the words of the Supreme Court in the first *Brown* case in 1954, when it ruled that segregation by race in education violated the 14th Amendment to the Constitution. The Court wrote:

"Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive children of the minority group of equal educational opportunities? We believe that it does."

The decree of the Court is clear: children are best served in public schools that are operated in accordance with the Constitution and meet their educational needs, and separation in schools by race is inherently unequal.

Subsequent decisions have established beyond doubt that there are several constitutionally acceptable ways to achieve desegregation and that busing is one of them.

This was unequivocally stated in *Swann*, when Chief Justice Burger, for a unanimous court, wrote that, where a school system has been deliberately constructed and maintained to enforce racial segregation, "desegregation plans cannot be limited to the walk-in school."

From *Swann* through a series of cases involving not only the South but the North and the West, busing has been declared an appropriate way to desegregate schools when acts of intentional racial discrimination have been proved.

I stress again "intentional." The busing plans that the Supreme Court approved were not engineered by judicial activists engaging in "sociological experimentation." Rather, they were the handiwork of cautious and conservative jurists who found busing to be the only practical way to desegregate and tailored the remedy to match the scope of the constitutional violation.

In any discussion of busing and desegregation, the number of children being transported for this purpose should be kept in perspective.

The neighborhood school, while undoubtedly a pleasant memory for some, has long been a vanishing institution for many and never existent for others. The number of school districts in the nation have decreased from about 128,000 in 1931-32 to 16,000 in 1976-77. As a result of this consolidation, riding public transportation to school is a fact of life for most children. Of the 40 million pupils in public schools, nearly 22 million—or 54 per cent—ride buses to school at an estimated public cost of $126 a pupil.

But only a small fraction of these are bused to desegregate. The U.S. Commission on Civil Rights estimates that less than 7 per cent of all pupils riding buses are being transported for this purpose, although it is about this busing only that one hears hostile criticism.

As these hearings proceed, the Subcommittee will have to sort through opposing opinions in many areas of dispute. Amoung these are the academic achievement of children in desegregated schools, the financial costs of busing, the effect of desegregation on housing patterns and race relations, the attitudes of citizens about desegregation in general and busing in particular, and whether there are real alternatives to busing. The debate on these issues will be intense.

Some will cite studies and argue the costs of busing for desegregation far exceed any educational gains enjoyed by minority students.

Other research indicates otherwise. One recent analysis of more than 100 cases of desegregation, for instance, found that achievement scores of minority students increased significantly after desegregation. Indeed, the researchers concluded that metropolitan or countywide plans, which entail substantial busing, have been the most successful in fostering achievement gains for minority pupils. Another recent assessment reported major improvements in reading by black children in the last 10 years, particularly in the Southeast, where the desegregation orders implemented were metropolitan or countywide in character.

There is evidence, also, that the earlier the desegregation in a child's life occurs the greater the gains and that there have been significant breakthroughs for blacks in colleges and universities and in the professions and trades as racial barriers fall.

These are some of the perceived benefits for blacks. No study has concluded that white pupils suffer academically from desegregation, and their lives may actually be enriched when their racial isolation is ended.

Financial costs of busing are also the subject of inconclusive argument.

Opponents of busing contend that the costs are burdensome for school districts already in trouble financially and that gasoline is wasted at a time when we should be conserving fuel. They say this money could be better spent on compensatory education programs.

Although the number of children being bused for desegregation is small in relation to the total being transported, this busing likely does add at least fractionally to the costs of running some school systems—as did busing to maintain segregated schools. But those who believe justice demands desegregation will question whether one can balance such costs against a constitutionally required social goal of an integrated society. They also make the point that those who criticize desegregation are the ones who also vote against providing money for compensatory programs.

Any dialogue on busing almost surely leads to the issue of "white flight."

Foes of busing acknowledge that other factors contribute to white flight but insist that the exodus is exacerbated by busing and that resegregation results.

On the other hand, supporters, while conceding that busing probably contributes to the movement by whites to suburbs, point out that studies show this exacerbation is short-lived. White flight, in any event, is a characteristic of communities in which desegregation has never been ordered or a pupil bused for that purpose. Declines in the enrollments of central city schools are held to result far more from the long-term trend of whites moving to the suburbs than from desegregation orders. In the South, in districts that have had desegregation plans for a decade that call for extensive busing, the enrollments have been quite stable.

There is no denying that there has been racial conflict when desegregation plans are first put in place. But I think these hearings must determine the attitudes of the people, black and white, after these plans have been in operation for several years. We might find, I think, substantial progress toward racial harmony.

Indeed, one study concluded that metropolitan-wide school desegregation has accelerated housing desegregation, because whites have no incentive to move to suburbs to find segregated white schools.

Let me add here, Mr. Chairman, that the burden of achieving residential integration must not be borne by the children. We must also enact a fair-housing law along the lines of the one on which we suffered a frustrating defeat last year, despite broad support. With such a law, the need for school busing might largely evaporate. As Will Hudnut II, mayor of Indianapolis, told our committee during hearings on the Fair Housing Act Amendments of 1980:

"If we can stabilize housing throughout the communities we live in and effectively combat discrimination and segregation through the adoption of nondiscriminatory housing . . . and financing practices, then the necessity for busing would be greatly reduced, if not eliminated."

Regardless of public opinion, the courts must uphold the law. Policy makers, however, should try to assess the public's position on busing and desegregation in fashioning legislation. What are the public's views?

Opponents of busing will point to recent national polls that suggest whites overwhelmingly object to busing for desegregation, while there is growing acceptance by them of desegregated schooling.

But, in a poll of whites who said their children had been "picked up by bus to go to school with children of other races," 54 per cent said the experience with busing had been very satisfactory, 33 per cent found it partly satisfactory, and 11 per cent said it had not been satisfactory. Supporters of busing concede the phrasing of the above question may not have been precise. Nevertheless, they hold that the results indicate that exposure to busing for desegregation, especially over a long period, increases the level of acceptance of busing.

To bolster this view, they point to a poll showing that only 5 per cent of white parents in the South, where busing to achieve desegregation has been used extensively, would object to sending their children to schools where a few pupils are black. In a 1963 survey, 60 per cent of those parents in the South indicated they would object.

The surveys of black parents indicate attitudes generally more favorable toward busing.

Results of opinion polls are often embraced or rejected on the basis of one's own preconceived notion of what the outcome should be. Accordingly, one side will assert these surveys establish that opposition to busing is aimed at the means being used to desegregate not the end itself. The other might argue that school busing is widespread and is objected to only when the bus ride is part of a desegregation plan. They fear that desegregated schooling is the real target of these objections, but opposition to busing only is voiced because that stance is more socially acceptable.

While taking cognizance of the surveys, this Subcommittee, I presume, will rely also on the personal testimony of those having experienced first-hand busing and desegregation.

There is no question that most parents, black and white, would prefer that effective desegregation be accomplished without busing. All would agree that it would be desirable to desegregate through incentive rather than compulsion.

Congress must explore what incentives it might offer. Alternatives to busing, both mandatory and voluntary, have been tried. Some have had limited success. Others could not pass judicial muster. For the reality is that in most cases busing has been found by prudent judges to be the only way to root out the vestiges of past intentional discrimination.

In the end, parents are much more concerned about the quality of their schools than the way they get to them. Parents, black, white and brown, share common goals for their children: a good education, a future with promise, and opportunity to share in the bounty of a productive, just and peaceful society.

In many communities, particularly in the South, concerned parents and educators have worked for years together in harmony after desegregation to improve the quality of schooling for all children. They have succeeded.

This Subcommittee, this Congress, must learn from them.

Mr. EDWARDS. Today's witnesses all have devoted a considerable share of their impressive careers to the resolution of this issue. Their views and goals, however, vary dramatically.

Before I introduce our first witness, does the gentleman from Illinois have a statement?

Mr. HYDE. I have no statement. Thank you, Mr. Chairman.

Mr. EDWARDS. The gentleman from Illinois?

Mr. WASHINGTON. Thank you, Mr. Chairman.

I commend the chairman for convening these hearings. The transportation of students, frequently across great distances, was traditionally used in many parts of the country in order to desegregate schools. This was accepted by many, many communities in the country.

Today, also throughout the country, especially in sparsely populated areas, school districts are consolidated so that students can be bused across great distances in order to achieve quality education. Again, this was done with widespread support.

Yet those who oppose pupil transportation in order to achieve desegregation have succeeded in transforming even the word "busing" to an emotionally laden politically devisive term. Recent debates on the use of busing for desegregation have been made deliberately emotional.

Inquiries such as those now being conducted in the Senate seem deliberately designed to support a conclusion that busing for the purposes of integration should be made unconstitutional. The emotional and politically charged atmosphere that has been allowed to surround this issue has obscured important public policy questions—questions involving both the quality of public education in America as well as the future course of American democracy.

I agree with the chairman that it is time these issues were explored or reexplored. I believe this subcommittee has an especially heavy responsibility to provide a fair, open, and impartial forum for review, and I know my colleagues feel the same way.

Thank you, Mr. Chairman.

Mr. **Edwards**. Thank you, Mr. Washington.

Our first witness today is our distinguished colleague from Ohio, Congressman Ron Mottl, who has been an able and consistent advocate for change in this particular area.

Mr. Mottl, you may proceed. We welcome you.

STATEMENT BY CONGRESSMAN RONALD M. MOTTL

Mr. Chairman, members of the subcommittee, Thank you for the opportunity to appear before you today on the status of school desegregation and methods of implementation.

As one who has devoted much of his efforts to fighting court-ordered busing since coming to Congress in 1975, I find it encouraging that this subcommittee is beginning to take this issue seriously.

My greatest concern is that these hearings, as useful as they may be, will only serve to delay consideration of specific legislative proposals to put an end to court-ordered busing. Hearings alone are not enough. This panel should immediately move to mark up legislation at the conclusion of hearings.

By this time I believe my views on court-ordered busine are well enough known in these halls. With varying degrees of success, I've probably twisted every arm here in attempting to get signatures on my discharge petition to bring the neighborhood schools constitutional amendment to the House floor.

But year after year has passed, the destruction of public education caused by court-ordered busing continues, and Congress has been content to take only token steps to curb this disastrous judicial policy.

During the Vietnam war, an American military officer made a remark which seemed to capture all of the frustrations and contradictions of that unhappy episode in American history.

Referring to some recent battle, the officer said that we had to destroy a village in order to save it.

The officer probably misspoke, but his off-hand comment brought into focus for people back home the question of whether the gains of winning that war could ever be worth the terrible costs.

Congress and Federal judges are long overdue in facing up to that question with respect to court-ordered busing. Look around at the cities where court-ordered busing is in effect, and ask yourselves, are we destroying public education in the name of saving it from the supposed evils of racially imbalanced classrooms?

The answer to that question is, unfortunately, yes. We have had court-ordered busing now in Cleveland for several years. As a product of that school system, it is personally painful for me to say that what was once one of the finest public schools systems in the Nation is now one of the worst.

Enrollment has plummeted from 115,000 a few years ago to 68,000.

The system lurches from one financial crisis to another, while attempting to budget $40 million per year not to educate kids but merely to move them around. Just last week, school financial planners predicted a $29 million deficit for 1982.

That means more staff cutbacks, fewer programs and continued dilapidation of the physical plant.

Pupil test scores remain in the basement as the quality of the educational experience declines. It was reported in the Cleveland Plain Dealer that more than 10,000 Cleveland students, about 13 percent of total enrollment, will not be advanced to the next grade this year. An incredible 41 percent of the 10th grade students were not promoted to the 11th grade.

Public pride in the neighborhood school, and support for the school system has vanished. Any prudent parent would look for alternatives to sending their children into the Cleveland system.

Nationwide, the picture is equally grim.

Costly fuel is wasted merely in moving children around. An estimated 155,000 gallons of fuel are wasted each school day to carry out court-ordered busing.

City after city has seen enrollments drop as more affluent whites and blacks flee the public schools, often resulting in school systems which are more segregated than before.

Even the education experts have thrown up their hands and repudiated court-ordered busing. The prime example is Professor James Coleman, whose earlier research helped courts justify their experimentation with busing. Professor Coleman has since done an exhaustive study of school systems which bus under court order, and has concluded that court-ordered busing has been a failure.

The polls I've seen show that even most black Americans want their children to attend a good, neighborhood school. In fact, one motivation for the civil rights litigation of the early 1950's was to end busing of black children—busing them past nearby white schools to more distant segregated schools.

I believe our society and its school systems should be color-blind. Yet, strangely enough, it is the proponents of court-ordered busing who insist that somehow black and white children can't get a good education unless they are mixed in careful proportions like chemicals in a laboratory test-tube.

I would like to quote at length some passages from a recent newspaper column by William Raspberry, a prize-winning member of the Washington Post writers group and one of the most prominent black newspaper commentators in the Nation. Mr. Raspberry wrote: "Busing for school desegregation has nearly always cost more in political, financial and emotional capital than it was worth in educational gains for black children. It is an issue that has unified much of white America and justified some of its baser instincts without similarly uniting black America, which never really was that hot for busing. It has torn communities apart for precious little education gain, and it has nearly bankrupted the NAACP.

"An occasional study here and there has found some slight gains in black achievement as a result of busing. But more typically even optimistic, pro-busing studies can claim little more than that white children aren't hurt by busing."

Mr. Raspberry continues, and I quote: "Most of the impetus for busing has come from white political activists and the civil rights establishment, most notably the NAACP and the NAACP legal defense fund. It has interested rank and file blacks primarily on the basis that oposition to busing has been seen as evidence of continuing white racism. In other words, blacks have tended to be less for busing than against anti-busing whites.

"Ordinary blacks have understood, even if the black leadership has not; the difference between the racial segregation that was outlawed in 1954 and the active integration of schools that later came to be the trend."

Mr. Raspberry concludes that what black children have needed all along is quality education, something that he believes can be had in black neighborhood schools as well as in schools integrated by costly and wasteful busing programs.

Mr. Raspberry adds: "This is not to say that rank and file blacks have favored segregation. They haven't. They have merely resisted the implication that schools whose students are black because the school neighborhoods are black are, on that account, inferior."

I don't believe I have ever read a sharper analysis of how court-ordered busing is a failure which degrades blacks in the process than this analysis by Mr. Raspberry.

But let's move beyond assigning blame.

Let's get rid of court-ordered busing once and for all. Let's have an amendment to the Constitution that assures that public education is colorblind; that guarantees black and white children that they can attend their neighborhood schools and not be guinea pigs for social experimenters.

That is my goal in advocating our constitutional amendment for neighborhood schools. We have made progress in every Congress since it was first introduced in 1975. President Reagan has told me he supports the amendment.

My greatest fear, as we watch our public school systems crumble, is that any relief from this disastrous judicial and social policy will arrive too late. We will have destroyed many once-fine school systems in the name of saving them.

Thank you.

TESTIMONY OF HON. RONALD M. MOTTL, REPRESENTATIVE IN CONGRESS OF THE UNITED STATES FROM THE 23D DISTRICT OF THE STATE OF OHIO

Mr. MOTTL. Thank you very much, Mr. Chairman, Mr. Hyde, Mr. Washington, staff members. Thank you for the opportunity to appear before you today on the status of school desegregation and methods of implementation.

As one who has devoted much of his efforts to fighting court-ordered busing since coming to Congress in 1975, I find it encouraging that this subcommittee is beginning to take this issue seriously.

My greatest concern is that these hearings, as useful as they may be, will only serve to delay consideration of specific legislative proposals to put an end to court-ordered busing. Hearings alone are not enough. This panel should immediately move to markup legislation at the conclusion of these hearings.

By this time I believe my views on court-ordered busing are well enough known in these Halls. With varying degrees of success, I've probably twisted every arm here in attempting to get signatures on my discharge petition to bring the neighborhood schools constitutional amendment to the House floor.

But year after year has passed. The destruction of public education caused by court-ordered busing continues, and Congress has been content to take only token steps to curb this disastrous judicial policy.

During the Vietnam war, an American military officer made a remark which seemed to capture all of the frustrations and contradictions of that unhappy episode in American history. Referring to some recent battle, the officer said that "we had to destroy a village in order to save it." The officer probably misspoke, but his offhand comment brought into focus for people back home the question of whether the gains of winning that war could ever be worth the terrible costs.

Congress and Federal judges are long overdue in facing up to that question with respect to court-ordered busing. Look around at the cities where court-ordered busing is in effect and ask yourselves, "Are we destroying public education in the name of saving it from the supposed evils of racially imbalanced classrooms?"

The answer to that question is, unfortunately, yes. We have had court-ordered busing now in Cleveland for several years. As a product of that public school system, it is personally painful for me to say that what was once one of the finest public school systems in the Nation is now one of the worst.

Enrollment has plummeted from 115,000 a few years ago to 68,000.

The system lurches from one financial crisis to another, while attempting to budget $40 million per year not to educate kids but merely to move them around. Just last week, school financial planners predicted a $29 million deficit for 1982. That means more staff cutbacks, fewer programs, and continued dilapidation of the physical plant.

Pupil test scores remain in the basement as the quality of the educational experience declines. It was reported in the Cleveland Plain Dealer that more than 10,000 Cleveland students, about 13 percent of total enrollment, will not be advanced to the next grade this year. An incredible 41 percent of the 10th grade students were not promoted to the 11th grade.

Public pride in the neighborhood school and support for the school system has vanished. Any prudent parent would look for alternatives to sending their children into the Cleveland system.

Nationwide, the picture is equally grim.

Costly fuel is wasted merely in moving children around. An estimated 155,000 gallons of fuel are wasted each schoolday to carry out court-ordered busing.

City after city has seen enrollments drop as more affluent whites and blacks flee the public schools, often resulting in school systems which are more segregated than before.

Even the education experts have thrown up their hands and repudiated court-ordered busing. The prime example is Prof. James Coleman, whose earlier research helped courts justify their experimentation with busing. Professor Coleman has since done an exhaustive study of school systems which bus under court order and has concluded that court-ordered busing has been a failure.

The polls I've seen show that even most black Americans want their children to attend a good neighborhood school. In fact, one motivation for the civil rights litigation of the early 1950's was to end busing of black children—busing them past nearby white schools to more distant segregated schools.

I believe our society and its school systems should be colorblind; yet, strangely enough, it is the proponents of court-ordered busing who insist that somehow black and white children can't get a good education unless they are mixed in careful proportions like chemicals in a laboratory test tube.

I would like to quote at length some passages from a recent newspaper column by William Raspberry, a prize-winning member of the Washington Post writers group and one of the most prominent black newspaper commentators in the Nation. Mr. Raspberry wrote:

> Busing for school desegregation has nearly always cost more in political, financial, and emotional capital than it was worth in educational gains for black children. It is an issue that has unified much of white America and justified some of its baser instincts without similarly uniting black America, which never really was that hot for busing. It has torn communities apart for precious little education gain, and it has nearly bankrupted the NAACP.
>
> An occasional study here and there has found some slight gains in black achievement as a result of busing. But more typically, even the optimistic, probusing studies can claim little more than that white children aren't hurt by busing.

And I would like to allude to a study just completed, as reported in the major newspapers yesterday, by Dr. Willis Hawley of Vanderbilt University, which came out with these results I just alluded to—the previously mentioned paragraph that I just read.

Mr. Raspberry continues, and I quote:

> Most of the impetus for busing has come from white political activists and the civil rights establishment, most notably the NAACP and the NAACP Legal Defense

> Fund. It has interested rank and file blacks primarily on the basis that opposition to busing has been seen as evidence of continuing white racism. In other words, blacks have tended to be less for busing than against antibusing whites.
>
> Ordinary blacks have understood, even if the black leadership has not, the difference between the racial segregation that was outlawed in 1954 and the active integration of schools that later came to be the trend.

Mr. Raspberry concludes that what black children have needed all along is quality education, something that he believes can be had in black neighborhood schools as well as in schools integrated by costly and wasteful busing programs.

Mr. Raspberry adds:

> This is not to say that rank and file blacks have favored segregation. They haven't. They have merely resisted the implication that schools whose students are black because the school neighborhoods are black are, on that account, inferior.

I don't believe I have ever read a sharper analysis of how court-ordered busing is a failure which degrades blacks in the process than this analysis by Mr. Raspberry.

But let's move beyond assigning blame. Let's get rid of court-ordered busing once and for all. Let's have an amendment to the Constitution that assures that public education is colorblind, that guarantees black and white children that they can attend their neighborhood schools and not be guinea pigs for social experimenters.

That is my goal in advocating our constitutional amendment for neighborhood schools. We have made progress in every Congress since it was first introduced in 1975. President Reagan has told me he supports the amendment.

My greatest fear, as we watch our public school systems crumble is that any relief from this disastrous judicial and social policy will arrive too late. We will have destroyed many once-fine school systems in the name of saving them.

Thank you.

And may I also add, Mr. Chairman, that my constitutional amendment reads: "No court of the United States shall require that any person be assigned to or excluded from any school on the basis of race, religion, or national origin."

Thank you, Mr. Chairman.

Mr. EDWARDS. Thank you very much, Mr. Mottl.

The gentleman from Illinois, Mr. Washington.

Mr. WASHINGTON. Yes. Mr. Mottl, I'm somewhat surprised at one of your statements that seemed to imply that court-ordered busing is the sole and only reason for "the destruction of our public school system." Is that your position?

Mr. MOTTL. I'm sorry. What is the question again, Mr. Washington?

Mr. WASHINGTON. I gather from your remarks that you're saying court-ordered busing is the sole, exclusive, and only reason for "the destruction of our public school system." Is that your position?

Mr. MOTTL. No. There are many causes for the destruction of the public school system, but this is one of the major ones.

Mr. WASHINGTON. Assuming your statement is correct, let's look at some of the causes of the so-called destruction of that system. Would you enumerate a few?

Mr. MOTTL. I would say violence, possibly lack of quality schoolteachers, not enough money to hire proper schoolteachers. Probably one of the biggest causes I alluded to is the remedy of court-ordered busing.

I am for desegregation of our school systems, just like you are, Mr. Washington, but I think there are other means to do it, other than court-ordered buses.

Mr. WASHINGTON. I'm vitally concerned with the question of the destruction or debilitation, or the lowered quality of education in our public school system, as you are. But I have been under the impression for many years that the main cause, or at least one of the main causes for that problem has been eroding tax bases in many urban areas, or lack of tax moneys.

Mr. MOTTL. It is.

Mr. WASHINGTON. And it has been the flight of certain groups from within the city, not necessarily due to busing or desegregation of schools, but due to other things which presumably attract people to suburban areas.

So I am somewhat amazed that you would imply in your written submission that destruction of the public school system rests on the forced busing of children.

Mr. MOTTL. That's one of the major causes, Mr. Washington. And the reason I say that—and I can cite Cleveland, Ohio; that's my hometown, where I went to school. It was one of the finest school systems in the country and now it's one of the worst. And ever since we have used the remedy of court-ordered busing imposed by Federal District Judge Frank Batiste, we have, in the last 4 years, white flight and also black flight from the Cleveland school system because of court-ordered busing.

We had a school system enrollment of 115,000. Now we're down to 68,000. Of those 68,000, I would imagine at least 10 to 20 percent of those are truant each schoolday, because they don't want to ride the schoolbus to the other side of the city.

Mr. WASHINGTON. Why do you attribute white flight and, as you say, black flight, to court-ordered busing? Isn't that a natural ecological development.

Mr. MOTTL. Not to that degree?

Mr. WASHINGTON. To what degree would it be?

Mr. MOTTL. I've seen statistics around the country by U.S. News & World Report——

Mr. WASHINGTON. Let's talk about Cleveland.

Mr. MOTTL. I would say it would be 1 percent, 2 percent at most a year—not the 10 percent or more that we have.

Mr. WASHINGTON. The point is you're guessing. You really don't know, do you?

Mr. MOTTL. You asked for an opinion. I'm giving you my opinion.

Mr. WASHINGTON. It's a guesstimate, isn't it? You don't really know.

Mr. MOTTL. I know what the enrollment decline has been because of court-ordered busing.

Mr. WASHINGTON. You know what the enrollment decline is. But what I'm trying to get to is to what do you attribute that decline? You seem to imply that it's due to busing. I am saying, what evidence do you have to support that conclusion?

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Mr. Mottl. I've seen Dr. James Coleman's report on 100 desegregation cases, from Boston to Los Angeles. You may recall that he was the prime architect of court-ordered busing.

Mr. Washington. I recall that, but I'm concerned about Cleveland.

Mr. Mottl. Cleveland is one of those 100 desegregation cases. And the main thesis of his report was court-ordered busing is a failure; it has caused white flight. And we need white people in Cleveland proper, as we need black people, wouldn't you say so, Mr. Washington, that we need people of all races?

Mr. Washington. I'm trying to pin down one point. Maybe we can't do it. And that is, in your submission, you state that white flight and black flight in Cleveland is due to court-ordered busing. And I asked you what evidence you had to support it. And you don't have it, I gather.

Mr. Mottl. We've never had the degree of white flight before we had court-ordered busing. The flight from Cleveland was 1 or 2 percent, as I said to you. And after court-ordered busing, we had, in just 4 years, a decline in enrollment from 115,000 to 68,000. That's much higher than 1 or 2 percent. That's probably at least 10 to 20 percent per year.

Mr. Washington. Let me turn to a study that you cited. I have the same article you have from the New York Times, I gather.

Mr. Mottl. Yes.

Mr. Washington. A dean of Vanderbilt University, Willis Hawley, after an analysis of 17 studies—I don't see Cleveland on here.

Mr. Mottl. I think he takes Shaker Heights, which is the most affluent city we have in the greater Cleveland area, which is a voluntary system. And he puts Shaker Heights in the study.

So right there, I would say that study is defective. Why didn't he take Cleveland?

Mr. Washington. Let's look at the study. The team went to Evanston, Ill., my territory; Stockton. They go throughout the country. The report cites 17 cities, and it concludes that there is a definite benefit to desegregated education, as you well know.

Dean Hawley indicates that the achievement level of blacks seems to go up; achievement level of whites stabilizes or goes up. In other words, he doesn't seem to extract any of the dire results or conclusions from desegregation, presumably including busing, that you do.

I'm interested in why you cited this particular article?

Mr. Mottl. Because I quoted Mr. Raspberry. William Raspberry is one of the most noted columnists in the United States. And he said in his column an occasional study here and there has found some slight gains in black achievement as a result of busing. But more typically, even the optimistic probusing studies can claim little more than the white children aren't hurt by busing.

I think if that article is supposed to say, "Well, gee, court-ordered busing has been great for this country," then we are in a sorrowful state with that remedy.

So, even one of the finest columnists in the country says that it hasn't worked.

And exactly what is the bottom line for Mr. Hawley's study is that there are slight gains for black children, but we are not hurting white schoolchildren. Isn't that wonderful?

But all the money, the white flight, and the waste of energy and the gasoline—to me, it seems that it isn't worthwhile to pursue this remedy. We should try other remedies.

Mr. WASHINGTON. Well, in the first place, Mr. Raspberry is one of many commentators on the subject. You can cite many, many others who disagree with him. But nowhere has he said that court-ordered busing should cease. He is simply saying that perhaps the results of it are not as high as they should have been.

I think my time has expired.

Mr. EDWARDS. The gentleman from Wisconsin, Mr. Sensenbrenner.

Mr. SENSENBRENNER. Thank you very much.

First of all, since the witness has referred to a column by William Raspberry, I would like to ask unanimous consent that Mr. Raspberry's column, which appeared in the Washington Post of Friday, September 4, 1981, be included as part of the record at this point.

Mr. EDWARDS. Without objection it will be included.

[The information referred to follows:]

[From the Washington Post, Sept. 4, 1981]

WHY IS BUSING THE ONLY ROUTE?

(By William Raspberry)

Th NAACP, unhappy with the results of nearly a decade of court-ordered busing in Prince George's County, has asked the court to reopen the original case.

The civil rights organization's contention will be that the county has not done all it could to maximize racial integration in the public schools. It obviously has not, though officials no doubt will content they have done all the law required them to do in that regard. They drew up bus routes and pupil assignment plans that, at least at the beginning, had the effect of ending official segregation.

A couple of things have happened since the plan was implemented in 1972. First, a large number of whites have left the public schools while a large number of black families have moved into the county, most of them in areas near the District of Columbia. Second, housing patterns in 1981 are not what they were in 1972. Whites have been moving farther out into the county, in many cases selling their homes to black newcomers.

The school system that was 13 percent black a decade ago is some 40 percent black a decade ago is some 40 percent black today. One result of all this is that the busing patterns that enhanced integration when they were established now often involve the absurd phenomenon of black children traveling great distances from their neighborhood only to wind up in schools that are overwhelmingly black.

It may be fair to ask whether the county has done as much as possible to maximize racial integration. Clearly, it hasn't. But the suspicion here is that that is the wrong question. The relevant inquiry is whether anyone—including the NAACP—has done as much as possible to improve the education of black children.

There are other qustions, but this one is key. For instance, the NAACP has questions regarding possible discrimination in hiring and assigning black teachers. In my opinion, that is a proper issue for the teachers themselves, but it has little to do with the question of educating black children, or of busing, for that matter. Indeed, if black teachers are being assigned disproportionately to black schools, that ought to enhance the education of black children—unless it is assumed that black teachers are either less qualified than whites or less concerned about the education of black children.

There is the question of whether school-closing decisions have been made in a way calculated to reduce the amount of racial integration, a charge which, if true, might prove to be the most effective lever for reopening the busing case.

There is the question of discrimination against black children, even when they attend integrated schools. The NAACP points out, for instance, that black children make up 67 percent of the "educable mentally retarded" and 61 percent of the children identified as having "specific learning disabilities." Black students, says NAACP general counsel Thomas I. Atkins, "are being disciplined for things that would be disregarded or given less discipline for whites." So why does Atkins work so feverishly to expose more black children to such disparate treatment?

There may even be a question of the equitable distribution of resources—the question that resulted in the busing order in the first place. But if that remains a problem, it strikes me that it can be resolved far more easily than by transferring pupils.

The NAACP's single-minded insistence on racial integration resolves none of these questions, and in some cases—the matter of school discipline, for instance—aggravates them. So why the continuing fervor for busing?

The reason, I suspect, is that the NAACP, seing clearly the importance of better education for black children, is trying to achieve it with the only tool it has at hand: litigation. Litigation works reasonably well in terms of statistical equity. It doesn't work worth a damn for the education of specific black children.

The NAACP thinks it is committed to improving education for black children. What it is really committed to is a specific method—busing—for achieving that end. And it would rather fight its quixotic court battles than switch to a different approach.

I would not argue for a return to the days of separate-but-equal, when black children were transported great distances to keep them from sitting next to white children. But neither would I argue for hauling black children needless miles to keep them from sitting next to other black children. Color isn't the problem; education is.

If the NAACP and its supporters had spent as much of their resources, financial and otherwise, improving the education of black children as has been spent trying to get them into predominantly white schools, the problem would have been solved long ago.

Mr. SENSENBRENNER. Second, having lived in an area that was under the gun for a busing order, both within the city and attempted legislative order consolidations of urban school districts with the city of Milwaukee, I'm certainly in sympathy with much of what the witness has to say.

But in talking about the origins of using busing as a remedy, we have referred repeatedly to a study that Prof. James Coleman of the University of Chicago conducted some time—about 15 years ago.

Is it not true that Professor Coleman, in looking back at that study, said that he goofed and, instead of advocating busing for school desegregation, is now advocating the establishment of magnet schools that draw from more than a neighborhood pattern?

Mr. MOTTL. Mr. Sensenbrenner, that's correct. He advocates two alternate remedies. One is the magnet school system, and the other—I've talked to him personally by phone on several occasions, because he is a noted sociology professor at the University of Chicago—which he now advocates allowing a child to go to any school system in the metropolitan area—if he is going to a neighborhood school in the ghetto, he could go to any suburban school he would so desire. Any suburban child who would like to have an experience in a ghetto school, he could go there. This is what he advocates on a voluntary basis.

Mr. Sensenbrenner. Being a little bit of a braggart, I would like to point out that he advocated that after my bill was passed in the Wisconsin Legislature. And such a system was established in the Milwaukee metropolitan area with the city's suburban exchanges. That worked out quite well, both educationally as well as financially to the suburbs since the State paid for the expenses of educating the children who were transferred from the city of Milwaukee into the suburban areas.

Mr. MOTTL. You're certainly to be complimented for doing that, because that's what Professor Coleman advocates. I think that makes much more sense than trying to force a child on a bus going across town. All we have seen as a result of court-ordered busing is very little evidence of any positive goal and a lot of negative evidence that it really hasn't worked.

Mr. SENSENBRENNER. I would just like to point out that this system has achieved wide acceptance in the Milwaukee area, even though there are problems involved in transporting children across school district boundary lines. My property taxes in Sherwood, Wis., as a result of additional State aid that has come into play for these transferers, is somewhere between $100 and $200 a year less than they would have been without this program.

I yield back the balance of my time.

Mr. EDWARDS. Mr. Mottl, in all of the Federal court-ordered desegregation orders there has been a finding by the court that school officials purposely and intentionally created, exacerbated, or perpetrated the segregation in their schools. In other words, a segregated situation was caused by the behavior and the intentions of the school boards by race-conscious actions.

So, if your constitutional amendment would make the courts powerless to reverse the effects of this intentional action by the school boards, what disincentive will exist for future segregative actions?

Mr. MOTTL. Mr. Chairman, you and I have debated this on several occasions in different places, different forums.

I, like you, believe that we have to desegregate the school systems that are segregated. But we have to use the proper remedy. The remedy I want to get rid of is a remedy that has been a total failure in my opinion. That remedy is court-ordered busing. It might have been a noble experiment when it first started, as suggested by Prof. James Coleman, but even he, after reexamining 100 desegregation cases from Los Angeles to Boston, found that it has been a total disaster. There are other remedies to achieve the same goal of desegregating a school district.

We have seen, by the use of court-ordered busing, undesirable goals.

But we have seen a great deal of white flight and black flight by the more affluent blacks out of the central city. We have seen the great costs associated with court-ordered busing. In Cleveland alone, $41 million to date has been spent, just on transferring students, by court orders. Cleveland School district is under the gun financially, they had to go to the State to bail them out financially.

No levies have been passed where there is imposition of court-ordered busing. The people will not support a school system that has this remedy of court-ordered busing. You need local financial support through levies, because schools can't all be funded out of the State entirely.

Also, we have seen an additional burden placed upon the local police. In Boston they're spending $12 million a year for padded police proteciton to protect those youngsters on the school buses and this expense came out of the taxpayer's pocket, also.

The great waste of gasoline fuel we're supposed to be saving—it's been estimated by the Library of Congress 155,000 gallons each school day wasted on court-ordered busing.

Now, what I'm suggesting, in lieu of this remedy that hasn't worked—it's been tried and tested—that we either have the magnet schools or, in lieu of that, what was instituted in Milwaukee by Mr. Sensenbrenner, through his legislation which he helped enact when he was a member of the Wisconsin Legislature, that allow students to go to any school in the metropolitan area and the State will pay the expenses thereof, and he can have an experience of going to school in a suburban area or a suburbanite can have the experience of going to the inner city, and that on a voluntary basis, to desegregate.

But when you try to force somebody by a court-ordered remedy, all we have is hostility. Those people that can afford other remedies of sending their children to suburban schools or to private schools, they do so. So who is bused? The poor blacks and the poor whites. This is unfortunate.

Mr. **Edwards**. You mentioned the Library of Congress. The American Law Division of the Congressional Research Service suggests that your resolution would bar federal courts from ordering a wide range of race-conscious remedies traditionally used in desegregation cases, which would not only include busing, but also the rezoning of school attendance boundaries, new school construction, school consolidations, and so forth.

So, after your resolution becomes a part of the Constitution, what remedies can a court order except, as you mentioned, magnet schools? I'm sure that we're all for magnet schools, but that's not going to resolve the problem in itself.

What is a Federal court supposed to do if you've got school districts that are blatantly segregated, and you've taken, by your constitutional amendment, the power from the court to do some of these other remedies, too, like new school construction, school consolidations, school attendance boundaries, and so forth?

Mr. **Mottl**. This has nothing to do with my constitutional amendment, with the consolidation of school districts, or anything of that nature. All it says, as a basis of race, religion, or national origin, no courts can assign anybody. But on another basis, that you have to consolidate or other rational—you can consolidate school districts. So that will not affect it one bit, Mr. Chairman.

As I said before, there are other remedies besides the magnet schools. The remedy as suggested by Mr. Sensenbrenner has worked very well in Milwaukee. I think we should all take heed of what's been done in Milwaukee and try that.

But to keep on imposing this remedy that hasn't worked, doesn't make sense to me. And that's why I think the American people generally are very hostile about why we should continue to do something that hasn't worked.

Mr. **Edwards**. Thank you.

The gentleman from Wisconsin, Mr. Kastenmeier.

Mr. **Kastenmeier**. Nothing.

Mr. **Edwards**. The gentleman from California, Mr. Lungren.

Mr. Lungren. Nothing.

Mr. Edwards. Counsel.

Mr. Cooper. No questions.

Mr. Edwards. Counsel.

Mr. Boyd. No questions.

Mr. Edwards. Thank you very much.

Mr. Mottl. Thank you very much, Mr. Chairman.

Mr. Edwards. Our next witness is Dr. Jay Robinson, who is superintendent of the Charlotte-Mecklenburg schools.

Dr. Robinson, we are pleased to have you here. Without objection, your statement will be a part of the record. You may proceed.

[Complete statement follows:]

STATEMENT TO U.S. HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE BY JAY M. ROBINSON

The Charlotte-Mecklenburg School System is the 30th largest system in the United States with 73,000 students in grades K-12. Of the students 61 percent are white and 39 percent are black. The school system has 105 schools, 74 elementary, 21 junior high, and 10 senior highs. The black ratio of each school ranges from 20 to 50 percent with one exception. One elementary school was exempted from the court order. That school is located in a community that was becoming integrated and the school racial ratio has continued to increase to its present 90 percent black student enrollment.

The school system provides school bus transportation for all eligible students. The North Carolina State Board of Education establishes the regulations which determine student eligibility to ride a school bus. The school system operates 621 buses daily that travel a total of 37,000 miles at an approximate cost of $4,000,000 annually. Approximately 48,000 students are transported to and from school each day by bus and approximately one-fourth of the 48,000 are bused as a result of their school assignment being made for the purpose of racial balance.

Prior to the implementation of the Swann decision in 1970 there was only token integration in the Charlotte-Mecklenburg Schools. The major reason being that over 90 percent of the black students lived in the inner-city in an area that is less than 10 percent of the geographic area of the county. Approximately 5 percent of the students in Mecklenburg County attended non-public schools before 1970 and approximately 12 percent attend non-public schools today. There has been little change in the number of Mecklenburg County students attending non-public schools in the county in the last five years.

The school system's pupil assignment plan uses three methods to correct racial imbalance: pairings of elementary schools, designation of satellite areas for assignment to a school in another attendance area, and gerrymandering of attendance area lines. The assignment plan was modified in 1974, 1978, 1979, and 1981 for three reasons: to correct racial imbalances, to better utilize existing school buildings, or to create a neighbor school when a community became integrated.

In the first few years after 1970 the schools were in turmoil. Achievement test scores dropped, student riots were commonplace, attendance was poor, and community support was very weak. By 1975 things had settled down and achievement scores began to improve and no significant student disruptions have occurred in any schools in the last six years. Student attendance has improved substantially for each of the last three years. Student behavior is also much improved. Parent and community support is very strong today with school events, such as PTA meetings and athletic events, enjoying record attendance. Achievement test scores compare much more favorably with other school systems than ever before. Our students' test scores rank well above national averages in all categories tested. The past two years is the only time our test scores have been above national averages since we began using standardized testing in 1967.

The Chamber of Commerce considers the school system a very positive factor in recruiting new business and industry to our community. We recently passed a $28,000,000 school facility bond referendum by a vote of better than 2 to 1. Our schools are financially dependent upon the locally elected Board of County Commissioners. We have received good local financial support and for the current school year we have been given a $4,000,000 increase in our operating budget.

Race relations are excellent in our community. Our nine school board members are all elected at large in a county-wide election. Three of the nine members of the board are black, one being chairman, even though only 25 percent of the county population is black. No incumbent board members have been defeated in the last three elections.

In my opinion, school integration has significantly contributed to the good race relations and quality of life in Charlotte and Mecklenburg County. Busing children from their neighborhoods to schools in other areas of the county in order to improve racial balance in schools will probably always bring strong opposition. However, I know of no other workable way to integrate schools until neighborhoods become more integrated. I believe our community is a better place to live and the overall quality of our schools is better today than it would have been if the Swann decision had never been made. Court ordered busing is the only way all schools in our school system would have been integrated. There has been a tremendous effort made by our community to make our pupil assignment plan work. Although resistance to cross busing continues in Charlotte, there is also a sense of pride in how well we have handled the difficult task. This past spring a testimonial dinner honoring the federal judge and the attorney for the plaintiff in the Swann case was held in Charlotte. The demand for tickets to this occasion was much greater than the large hall where the dinner was held could accommodate. The school board cancelled their regularly scheduled meeting in order for school board members to be able to attend this dinner. A decade ago the Board of Education had tenaciously fought the Swann decision and had resisted initial implementation of the decision.

There is an air of optimism in the Charlotte-Mecklenburg Schools. Morale and expectations are high. I would prefer being superintendent in Charlotte-Mecklenburg to any large school system in this country. The major reason I feel this way is that I sincerely believe we have successfully handled the problems of school integration. In large measure we have put racial strife and bigotry behind us and are concentrating on improving the quality of education for all our students.

TESTIMONY OF DR. JAY W. ROBINSON, SUPERINTENDENT, CHARLOTTE-MECKLENBURG SCHOOL SYSTEM, NORTH CAROLINA

Dr. ROBINSON. Thank you.

The Charlotte-Mecklenburg school system is the 30th largest system in the United States with 73,000 students in grades K–12. The school system has 105 schools, 74 elementary, 21 junior high, and 10 senior highs. The black ratio of each school ranges from 20 to 50 percent, with one exception. One elementary school was exempted from the court order. That school is located in a community that was becoming integrated and the school racial ratio has continued to increase to its present 90 percent black student enrollment.

The school system provides schoolbus transportation for all eligible students. The North Carolina State Board of Education established the regulations which determine student eligibility to ride a schoolbus. The school system operates 621 buses daily that travel a total of 37,000 miles at an approximate cost of $4 million annually. Approximately 48,000 students are transported to and from school each day by bus and approximately one-fourth of the 48,000 are bused as a result of their school assignment being made for the purpose of racial balance.

Prior to the implementation of the *Swann* decision in 1970 there was only token integration in the Charlotte-Mecklenburg schools. The major reason was that over 90 percent of the black students lived in the inner city in an area that is less than 10 percent of the geographic area of the county. Approximately 5 percent of the students in Mecklenburg County attended nonpublic schools before 1970 and approximately 12 percent attend nonpublic schools today. There has been little change in the number of Mecklenburg County residents attending nonpublic schools in the last 5 years.

The school system's pupil assignment plan uses three methods to correct racial imbalance: pairings of elementary schools, designation of satellite areas for assignment to a school in another attendance area, and gerrymandering of attendance area lines. The assignment plan was modified in 1974, 1978, 1979, and 1981 for three reasons: to correct racial imbalances, to better utilize existing school buildings, or to create a neighborhood school when a community became integrated.

In the first few years after 1970 the schools were in turmoil. Achievement test scores dropped, student riots were commonplace, attendance was poor, and community support was very weak. By 1975 things had settled down and achievement scores began to improve and no significant student disruptions have occurred in any schools in the last 6 years. Student attendance has improved substantially for each of the last 3 years. Student behavior is also much improved. Parent and community support is very strong today with school events, such as PTA meetings and athletic events, enjoying record attendance. Achievement test scores compare much more favorably with other school systems than ever before. Our students' test scores rank well above national averages in all categories tested. The past 2 years is the only time our test scores have been above national averages since we began using standardized testing in 1967.

The chamber of commerce considers the school system a very positive factor in recruiting new business and industry to our community. We recently passed a $28 million school facility bond referendum by a vote of better than 2 to 1. Our schools are financially dependent upon the locally elected board of county commissioners. We have received good financial support and for the current school year we have been given a $4 million increase in our operating budget.

Race relations are excellent in our community. Our 9 school board members are all elected at large in a countywide election; 3 of the 9 members are black, 1 being chairman, even though only 25 percent of the county population is black. No incumbent board members have been defeated in the last three elections.

In my opinion school integration has significantly contributed to the good race relations and quality of life in Charlotte and Mecklenburg County. Busing children from their neighborhoods to schools in other areas of the county, in order to improve racial balance in schools, will probably always bring strong opposition. However, I know of no other workable way to integrate schools until neighborhoods become more integrated.

I believe our community is a better place to live and the overall quality of our schools is better today than it would have been if the *Swann* decision had never been made. Court-ordered busing is the only way all schools in our school system would have been integrated. There has been a tremendous effort made by our community to make our pupil assignment plan work. Although resistance to cross busing continues in Charlotte, there is also a sense of pride in how well we have handled the difficult task.

This past spring a testimonial dinner honoring the federal judge and the attorney for the plaintiff in the *Swann* case was held in Charlotte. The demand for tickets to this occasion was much greater than the large hall where the dinner was held could accommodate. The school board canceled their regularly scheduled meeting in order for school board members to be able to attend this dinner. A decade ago the board of education had tenaciously fought the *Swann* decision and had resisted initial implementation of the decision.

There is an air of optimism in the Charlotte-Mecklenburg schools. Morale and expectations are high. I would prefer being superintendent in Charlotte-Mecklenburg to any large school system in this country. The major reason I feel this way is that I sincerely believe we have successfully handled the problems of school integration. In large measure we have put racial strife and bigotry behind us and are concentrating on improving the quality of education for all our students.

Thank you.

Mr. Edwards. Thank you very much, Dr. Robinson. That is a very encouraging testimony.

The gentleman from Illinois, Mr. Washington.

Mr. Washington. Yes, Dr. Robinson. What would you say was the key to the success of the integration program in Charlotte-Mecklenburg?

Dr. Robinson. I believe the key would be the strong community support for public schools and their willingness to support the schools, even if there was initially strong opposition to the court order and, of course, some opposition continues today. But I believe the basic commitment of the community to a strong public school system is probably one of the major factors. Another would be, I believe—I think we have an excellent community that's interested in good race relations and quality education for all of our students.

Mr. Washington. Would you add that there was a commitment on the part of the school authorities to assist in making this program work?

Dr. Robinson. I was not superintendent of the school system when the plan was initiated. I'm in my fifth year as superintendent, but I was superintendent in the neighboring county. I'm not sure how much commitment there was initially. I know the board of education resisted. I know at least three members were elected on the platform of being very much opposed to the integration plan. I do know that presently and in my administration and with the school board, there is a strong commitment to making the plan work. And I think with this positive leadership, it very definitely contributes to how well it's working.

Mr. Washington. I take it you have it?

Dr. Robinson. Yes, indeed.

Mr. Washington. The figures you give on transfers to nonpublic schools suggest that white flight to private schools has not been a major problem; would you agree?

Dr. Robinson. That's correct.

Mr. Washington. Would you expand on that, please?

Dr. Robinson. There has never been a lot of parochial and private schools in our community. There was some flight and some—We call them "fly-by-night" private schools—cropped up in the community immediately after the court order. But the population of those schools leveled off, as I said, after about 5 years and there's been substantially no growth in the enrollment of those schools.

The figures I gave you, 12 percent of the students in Mecklenburg County, in my opinion, accurately gives you the picture today. There are probably 1,000 or 2,000 students enrolled in Mecklenburg County who come in from other surrounding school districts.

Mr. WASHINGTON. Are you aware of the recent study that came out from Vanderbilt University by Dean Willis Hawley which was published, I think, yesterday?

Dr. ROBINSON. I read it in yesterday's paper. That's all I know about it.

Mr. WASHINGTON. You couldn't comment on it?

Dr. ROBINSON. Not without knowing more than I know.

Mr. WASHINGTON. I yield, Mr. Chairman.

Mr. EDWARDS. The gentleman from Wisconsin, Mr. Sensenbrenner.

Mr. SENSENBRENNER. Dr. Robinson, in your testimony, you indicated that the busing plan had been modified on four separate occasions, since it was initially imposed by a federal judge, and one of those factors was to correct racial imbalances. Immediately prior to the modification of the court order, in each of these four occasions, was there any evidence of the so-called "tipping" phenomenon within your school district? And by "tipping," I mean the phenomenon that most sociological studies indicate occurs when a school district gets an enrollment of over 35 percent black, it becomes nearly 100 percent black in a matter of a couple of years. Has there been any tipping in Charlotte-Mecklenburg?

Dr. ROBINSON. I'm not familiar with the 35 percent figure. Our commitment has been to keep all of our schools below 50 percent. And when a school racial population was nearing or slightly over 50 percent, we have modified the plan to take care of that change in the racial makeup of those schools.

Mr. SENSENBRENNER. Would you say that after each of these modifications to the plan there were more pupils bused further distance or fewer pupils bused a further distance, or the same?

Dr. ROBINSON. Overall, the changes that have been made since 1975—and I'm not really familiar with that. I can only speak to the last three changes, and I have been directly involved with those. There has been less busing than we had prior to those changes. That came about for several reasons. You work with a plan, and you are always trying to find ways to make it more possible for more students to go to their neighborhood schools or so-called "neighborhood schools," and we had one example last spring of a large elementary school. The neighborhood becoming naturally integrated, and by making some changes in the pupil assignment plan, we were able to reduce the number of students bused in that by about one-third. We reduced the number of students bused by about 400, as a result of that change in the plan.

I would say that in the last 5 years, these changes have resulted in some less busing.

Mr. SENSENBRENNER. Could you submit to the subcommittee some statistical information about the number of pupils that were actually bused and the racial composition of the schools immediately prior and immediately after each of the four modifications of the plan that were contained in your testimony?

Dr. **Robinson**. I would be glad to furnish those figures. I don't have them with me, but I will be happy to furnish them.

Mr. **Edwards**. Without objection, they will be made a part of the record.

Mr. **Sensenbrenner**. I thank you and yield back the balance.

[Information to be furnished follows:]

Research Report 10-5-81
The Charlotte-Mecklenburg Schools

NUMBER TRANSPORTED* AND ENROLLED IN YEAR PREVIOUS AND AFTER THE LAST FOUR MODIFICATIONS OF PUPIL ASSIGNMENT PLAN

Showing Per Cent Black Transported and Enrolled and the Per Cent of White (all not Black), Black, and Total Transported of the Enrolled

Ending 1st Month	Transported				Enrolled				% Transported		
	W	B	T *	%B	W	B	T *	%B	W	B	T
1973-74	27,006	20,286	47,292	42.9	52,209	26,152	78,361	33.4	51.7	77.6	60.4
#1- - 1974-75	26,552	19,447	45,999	42.3	51,114	26,186	77,300	33.9	51.9	74.3	59.5
1977-78	28,645	21,349	49,994	42.7	50,375	28,741	79,116	36.3	56.9	74.3	63.2
#2- - 1978-79	27,531	21,145	48,676	43.4	48,657	28,561	77,218	37.0	56.6	74.0	63.0
1979-80	27,040	20,375	47,415	43.0	47,456	28,448	75,904	37.5	57.0	71.6	62.5
#3- - 1980-81	25,908	20,098	46,006	43.7	45,764	28,020	73,784	38.0	56.6	71.7	62.4
1980-81	25,908	20,098	46,006	43.7	45,764	28,020	73,784	38.0	56.6	71.7	62.4
#4- - 1981-82	25,738	19,942	45,680	43.7	44,714	27,867	72,581	38.4	57.6	71.6	62.9

* Totals do not include TMH (Handicapped) students located at one center or 265 - 401 pupils.
Approximately one-fourth of the students are transported for racial reasons under the pupil assignment plan.

* Hazardous condition granted transportation within 1½ miles of school: not included in transported.

Research Report 10-8-81
The Charlotte-Mecklenburg Schools

NUMBER TRANSPORTED AND ENROLLED IN YEAR PREVIOUS AND AFTER THE LAST FOUR MODIFICATIONS OF PUPIL ASSIGNMENT PLAN

Showing Per Cent Black Transported and Enrolled and the Per Cent of White (all not Black), Black, and Total Transported of the Enrolled

End of 1st Month	Transported				Enrolled				% Transported		
	W	B	T *	%B	W	B	T *	%B	W	B	T
1973-74	27,006	20,286	47,292	42.9	52,209	26,152	78,361	33.4	51.7	77.6	60.4
1- - 1974-75	26,552	19,447	45,999	42.3	51,114	26,186	77,300	33.9	51.9	74.3	59.5
1977-78	28,645	21,349	49,994	42.7	50,375	28,741	79,116	36.3	56.9	74.3	63.2
2- - 1978-79	28,320	21,581	49,901	43.2	48,657	28,561	77,218	37.0	58.2	75.6	64.6
1979-80	28,439	21,301	49,740	42.8	47,456	28,448	75,904	37.5	59.9	74.9	65.5
3- - 1980-81	27,577	21,024	48,601	43.3	45,764	28,020	73,784	38.0	60.3	75.0	65.9
1980-81	27,577	21,024	48,601	43.3	45,764	28,020	73,784	38.0	60.3	75.0	65.9
4- - 1981-82	27,487	21,133	48,620	43.5	44,714	27,867	72,581	38.4	61.5	75.8	67.0

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* Totals do not include TMH (Handicapped) students located at one center or 265 - 401 pupils.
Approximately one-fourth of the students are transported for racial reasons under the pupil assignment plan.

Mr. **Edwards**. Mr. Lungren?

Mr. **Lungren**. Nothing.

Mr. **Edwards**. You were here, Dr. Robinson, when our colleague from Ohio testified, Mr. Mottl. Why do you think that the success in the Charlotte area was so outstanding, and according to Mr. Mottl, the situation in Cleveland has been less than successful?

Dr. **Robinson**. Mr. Chairman, I know very little about Cleveland. I have talked to some of the school people in Cleveland from time to time, and without being certain of my assumptions, I do believe that although our community resisted court-ordered busing, when it became obvious that that was the decision of the Supreme Court, and that was the law as it applied to our community, the board of education and the community began to find ways of making the plan work, rather than finding ways to resist the plan.

If I am not incorrect in what I understand about Cleveland, they resisted until the courts actually took over the schools and had a court-appointed official to run the schools. I'm not sure, but I think that kind of opposition from the administration and board of education could definitely have an effect on how a plan worked.

Mr. **Edwards**. So what you're saying is, that there must be community support and respect for the Court decision?

Dr. **Robinson**. Yes, sir.

Mr. **Edwards**. What would have been the kind of success that the Charlotte-Mecklenburg school system would have had, if busing had not been permitted because, well, say, of a constitutional amendment?

Dr. **Robinson**. The schools would be substantially segregated today, because although there is some integration in housing, and there has been some change, basically, the black citizens live in a small part of the geographic area of the county, and only the schools immediately adjacent to those communities, with a few exceptions in the northern end of the county, and a few other communities—we would have very little integration. We would have only token integration in some schools, and some would be totally white.

Mr. **Edwards**. And it is also your testimony that with the integration, eventually came better education, as evidenced by the test scores?

Dr. **Robinson**. Well, it's impossible to say what the quality of education could have been, if we had not had court-ordered busing. I'm saying that I believe all of our schools are better today. The overall quality is better than it would have been, if the *Swann* decision had not been made.

One reason I think this could be at least partially documented, is that when the school system started using standardized testing in 1967, our students ranked about a year below national averages in the achievement level of the students, all students tested being all the students in the school system. Today for the first time, we rank well above national average in all categories, and I think that's very significant. I could not say with any certainty that our overall test scores wouldn't be above national averages systemwide, if we had not had court-ordered busing, but I know that we have had, and I know they are, so it's impossible to speculate on what the quality of education could have been without this.

I do believe there is a sense of pride and a strong support for the schools in our community, even though we probably have as extensive a busing as any community in the country.

Mr. **Edwards**. In any event, you and your people and, indeed, the community of your area are to be congratulated.

Mr. Washington, do you have any further questions?

Mr. **Washington**. No further questions.

Mr. **Edwards**. Mr. Sensenbrenner?

Mr. **Sensenbrenner**. No.

Mr. **Edwards**. Mr. Lungren?

Mr. **Lungren**. No.

Mr. **Edwards**. Ms. Cooper.

Ms. **Cooper**. You stated one of the reasons the assignment plans have been modified in recent years was to create neighborhood schools when that part of the community became integrated. Do you attribute that residential desegregation to the school desegregation itself? That is, as schools became just schools rather than white schools or black schools, was there less residential segregation?

Dr. **Robinson**. Again, I think that's somewhat speculation on my part. I think there is a commitment in our community beyond the schools to work and a commitment to work toward integrated housing throughout the county, but I do believe the fact that there is a general feeling that the quality of education in our schools is equal throughout the system, is definitely a contributing factor and encourages integrated housing.

Ms. **Cooper**. Did the community receive Federal financial support in its implementation of educational changes that went along with the desegregation plan?

Dr. **Robinson**. The only funds that I am familiar with that would have been directly related to that would have been the ESA funding, and I'm not sure that wouldn't have been at least part of those funds, would have been available without the court-ordered busing. I think there has probably been some title III grants and this kind of thing, but they would have been pretty minimal in the whole operation.

I don't think there has been substantial funding come to the school system as a result of the court-ordered busing.

Ms. **Cooper**. Were the Emergency School Aid Act funds, important in implementing desegregation? Without those funds would it have been more difficult?

Dr. **Robinson**. Yes; it would have been more difficult, because they were used basically for remediation in junior high school, until the last couple of years or the last year that this was no longer permissible.

Those funds are helpful as any remediation funds are helpful in the school system that's trying to see that all their students receive a quality education and move us as near to reaching a potential as possible. However, I do not believe that funding would have made the difference of whether we could have accomplished what we have accomplished or not. I think it helped, but I don't think the success of the court-ordered busing hinged on that funding.

Ms. **Cooper**. Thank you.

Mr. EDWARDS. If there are no further questions, we thank you very much, Dr. Robinson.

We are going to ask the next three witnesses to sit together as a panel at the witness table. The first witness to speak will be Tom Atkins, who is general counsel of the NAACP. We will then ask Prof. Nathan Glazer to speak, and then Julius Chambers. And I will identify them further as they get ready to speak. Gentlemen, we are delighted to have you all here.

Mr. Atkins, you may proceed first. I will warn you in advance that we will have a vote or two, probably, as this panel proceeds, so there will be some delay.

TESTIMONY OF TOM ATKINS, GENERAL COUNSEL, NAACP; NATHAN GLAZER, PROFESSOR OF EDUCATION AND SOCIOLOGY, HARVARD UNIVERSITY GRADUATE SCHOOL OF EDUCATION; AND JULIUS CHAMBERS, PRESIDENT, NAACP LEGAL DEFENSE AND EDUCATION FUND, INC.

Mr. EDWARDS. Mr. Atkins, you are recognized. You may speak.

Mr. ATKINS. Thank you very much, Mr. Chairman.

Mr. EDWARDS. It's nice to have all three of you here.

Mr. ATKINS. Mr. Chairman, I have prepared some written comments which have been distributed, I believe.

Mr. EDWARDS. Yes. And without objection, the full statements of all the witnesses, including the attachments, will be made a part of the record.

[The documents follow:]

TESTIMONY OF THOMAS I. ATKINS, GENERAL COUNSEL, NAACP BEFORE THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS OF THE HOUSE JUDICIARY COMMITTEE

September 17, 1981

Mr. Chairman, and members of the Committee, the NAACP is grateful for the opportunity to appear before you and share our views on the status of school desegregation and methods of implementation.

It is indeed ironic that most of today's agitation about school desegregation comes not from the South, whose systematic laws of racial separation created the dual systems which were the principal target of the Supreme Court decisions in Brown I and II. Rather, today's principal resisters to school desegregation live in northern and western areas of the country. Typical of this geographical focus for desegregation opposition is the Ohio-based Mottl amendment now before the Congress and this Committee.

We might pause to ask ourselves why the North and West would serve as the principal launching pads for resistance to school desegregation, despite the fact that far fewer northern and western communities are undergoing desegregation or are facing desegregation challenges than one finds in the South. I believe the answer is to be found in three different areas: 1) hypocrisy; 2) ignorance; 3) shifting moods of official opinion. I will address each of these phenomena--in reverse order.

I. SHIFTING MOODS OF OFFICIAL OPINION

Over the course of the past several months, we have seen the acceleration of federal government retreat from the historic role played by federal agencies, primarily the old Department of H.E.W.'s Office of Civil Rights, now replaced by the new Department of Education, along with the Justice Department. Title VI of the 1964 Civil Rights Act provided the basis for most of HEW's activity in this field initially, and the Justice Department premised its involvement on either Title VI or the Fourteenth Amendment to the U.S. Constitution. These federal agencies, usually prompted by NAACP complaints or, in some instances, law suits by the NAACP or Legal Defense Fund, served to represent the national commitment to undo forcibly-created patterns of educational segregation. Sometimes the federal initiative took the form of nudging as a prerequisite to local or state receipt of federal funds; other times the federal presence was in the form of litigation to vindicate statutory or constitutional rights.

Under pressure from the Congress, and pursuant to restrictive statutory provisions, the federal education agencies have been essentially neutered.[1] Their enforcement role has been virtually eliminated, with the ability to withhold funds because of local failure to eliminate,or devise plans to eliminate, racial segregation and/or discrimination taken away. The Department of Education, if it concludes that problems of segregation and/or discrimination can be resolved only by pupil reassignment, must now refer the matter to the Justice Department for enforcement. The curious effect of this Congressional limitation has been to force the filing of law suits in situations which previously would have been negotiated between educational officials at the federal and local levels.[2]

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[1] The *Esch* Amendment, 20 U.S.C. § 1714(a) (1973); the *Byrd* Amendment, 42 U.S.C. 2000d (1976) and the *Eagleton-Biden* Amendment, 42 U.S.C. 2000d (1976) taken together have prevented the Department of Education from requiring school desegregation.

[2] The *Eagleton-Biden* Admendment makes this result necessary since it strips the *Department of Education* of the right to withhold federal funds from non-compliant school districts unwilling to transport students to remedy statutory and constitutional violation. In this legislation, Congress expressed its preference for Justice Department enforcement of civil rights guarantees.

The combination of Congressional pressure, Congressional restrictive legislation, and high politics created a state of affairs in which lawsuits were filed against the Department of HEW for failing to implement the civil rights assurances prerequisite to allocating federal funds.[3] The only reason these restrictive statutory provisions were not found unconstitutional was the presumption that the Justice Department could still go into appropriate courts for such complete relief as might be warranted by applicable law in light of the factual circumstances.[4] As this Committee knows, yet other Congressional assaults have been launched on the ability of the Justice Department to go into court to vindicate constitutional or statutory rights where the result might be student reassignment or transportation.[5] Still other measures have been introduced which, if passed, would restrict the ability of federal courts to order school desegregation remedies,[6] would empower the Justice Department to go into federal court to sue to maintain racial segregation where its elimination would require student reassignment or transportation[7]

Along with these legislative efforts to restrict the federal government's role in school desegregation, the present administration has itself taken several actions which indicate its intent to further reduce the federal government enforcement efforts in the school desegregation area. For example, a law suit filed in Chicago last year and simultaneously "settled" via a Consent Decree entered the same day called for Chicago officials to prepare for September, 1981 implementation of systemwide desegregation. The present administration has permitted these same Chicago officials to refuse to submit a desegregation plan developed with federal ESAA funds by national experts, and has recently agreed to two further delays in plan development and ultimate implementation, including a suggestion to the federal court that it place its own imprimatur on the Chicago delaying tactics so that Chicago could qualify for yet additional federal funds.[8] The Justice Department, having defended in the federal district and circuit courts, a voluntary Seattle student desegregation plan against a state referendum which would have blocked the local implementation, just recently reversed its position entirely when this matter reached the U.S. Supreme Court, now arguing that the United States "has no interest" in this matter and that no illegality attaches to the state effort to block local desegregation efforts.[9] Aside from the silly posture the government will be seen as taking between its lower and upper court arguments, this latest Justice Department brief raises fundamental questions about the integrity of the federal government's historic role of providing assistance to the Supreme Court through the Solicitor General's Office, since the position now being advanced is totally at odds with all existing Supreme Court precedent, Justice Department policy and briefing and litigation, and the precedents in each of the federal circuits which have visited the subject of state interference with local voluntary desegregation efforts.[10] Recent articles in the Washington Post reveal yet another front on which the present administration seeks to reverse the historic federal government role of protecting minority children against official segregation. In an emotional argument totally devoid of any effort at legal justification, the Deputy Assistant Attorney General in the Civil Rights Division opines that black youngsters might be permissibly separated from their white colleagues in academic programs since "Blacks, because of their family, cultural and economic background are more disruptive in the classroom on the average", and because "It seems they would benefit from such programs."[11] Setting aside for purposes of this discussion the obviously racist implications of the D'Agostino assertion, that such a high administration official would even give currency to views which most of us thought died with Adolph Hitler might be taken as evidence of the vigor with which federal government retreat is being pursued in this area. Similar evidence might be inferred from Justice Department actions in the St. Louis school case. There,after a change of administration, the same Justice Department which had three months earlier prepared motions to seek inter-district desegregation remedies proposed an odious reverse bounty plan which sought to entice black and white children to undo the forced segregation of school officials by the promise of state-financed higher education based on the number of years the child attended an opposite-race school.[12] While other examples might be cited of actions taken by this administration in the school arena, I believe the point is made.

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[3] *Adams v. Richardson*, 455 F.Supp. 837 (D.D.C. 1972), *mod'd* 356 F.Supp. 92 (D.D.C. 1973), *aff'd* 450 F. 2d 1159 (D.C. Cir. 1973) (*en banc*); *Brown v. Califano*, No. 75-1068 (D.D.C. filed July 20, 1976)

[4] *Brown v. Califano*, 627 F.2d 1221, 1232-33 (D.C. Cir. 1980)

[5] For instance, in June of this year, the so-called *Collins* Amendment was offered as a rider to the Department of Justice appropriations bill. In the Senate, Senator Helms & Thurmond offered a similar idea in late June, 1981.

[6] See, H.J. Res. 56, the so-called *Mottl* Amendment; S. 1147, Sec. 4(b).

[7] S. 1147, Sec. 5 (b)

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[8] Joint filing of United States and Board of Education of the City of Chicago, August 28, 1981

[9] Seattle School District No. 1 v. Washington, 473 F.Supp. 966 (W.D. Wa. 1979), aff'd ____ F.2d. ___, 49 U.S.L.W. 2425 (9th Cir.,January 6, 1981)

[10] In the companion case to Swann v. Charlotte-Mecklenburg Bd., the United States addressed the question of state efforts to prevent local implementation of desegregation plans: "...if a state-imposed limitation on a school authority's discretion operates to inhibit or obstruct the operation of a unitary system or impede the disestablishment of a dual school system, it must fall; state policy must give way when it operates to hinder vindication of federal constitutional guarantees...Just as the race of students must be considered in determining whether a constitutional violation has occurred, so also must race be considered in formulating a remedy. To forbid , at this stage, all assignments made on the basis of race would deprive school authorities of the one tool absolutely essential to fulfillment of their constitutional obligation to eliminate existing dual school systems." North Carolina Bd. v. Swann , 402 U.S. 43, 45 (1971)

These legislative and administrative retreats come at a time when public opinion polls have shown an undiminshed public support for the national commitment to integration, and strong support for school desegregation in those communities which have had the most experience with it.[13] One might surmise that official Washington is racing out to slay a dragon which only it perceives to be ravaging the countryside.

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[11] Memorandum of Robert D'Agostino to William Bradford Reynolds, Assistant Attorney General for Civil Rights, dated July 21,1981

[12] The plan, after fierce opposition from local and state officials, has been quietly shelved. The principal state objections were around the failure and apparent unwillingness of the federal officials to promise any form of financial assistance to implement the federal plan.

[13] While the numbers vary from poll to poll, the NORC and Harris polls have consistently shown that a majority of Americans polled, of all ages, races, incomes, regions, and educational backgrounds, favor an America free of racial segregation in schools and housing and employment. While a consensus on how to achieve these goals has yet to crystalize, effective national leadership could do much towards this end.

II. IGNORANCE OF FACTUAL BACKDROPS AND APPLICABLE LEGAL STANDARDS

The second area which I will briefly address, and which also accounts for some of the assaults being made on school desegregation remedies, stems from an inadequate or erroneous understanding of the process which precedes court-ordered desegregation remedies, and the nature of the legal principles which guide courts asked to issue desegregation orders.

It is fashionable these days for opponents of school desegregation to paint pictures of hyperactive federal judges disregarding local facts and circumstances to hold hapless school officials liable for failing to correct "racial imbalance" they had no role causing in the first instance. This popular notion would have one believe that the real culprit, if a culprit exists, is either the desire of people to live in racial or ethnic residential enclaves which school officials are obliged to service with school facilities. School desegregation remedies are painted as "social engineering" schemes, designed to provide court solutions to problems which have no legal basis in wrongful conduct.

As attractive as is the notion of curbing judicial excess, ending "social engineering", and returning control of schools to local people, the notion is premised on sheer fantasy.

With the possible exception of large anti-trust law suits, no other civil litigation likely to come before a federal court is as thoroughly researched and developed as a school desegregation case, nor is it likely that any other category of litigation involves such a large number of variables which must be carefully catalogued and explained as a school case. Typically, such a case will involve thousands of pre-trial discovery items and questions, will include literally millions of sheets of official documents, will require the testimony of 2-3 dozen live witnesses in addition to sworn depositions, will consume 3-7 weeks of trial, and will be recorded in 8-20,000 pages of official transcript. School boards and officials are invariably represented by the city's law department with all the resources routinely available to these large legal units, or by special retained counsel who typically are among the most noted and highly-paid professionals in town.[14] Because of the stringent provisions of the Federal Rules of Civil Procedure, school desegregation cases do represent trial by ambush. Both the lawyers representing the plaintiffs and those representing the defendants have had ample opportunity to obtain from each other the precise details on which the respective cases depend. Full opportunity is given each side to write pre-trial and post-trial legal memoranda, and each side is free to prosecute such appeals as may be warranted all the way to and through the United States Supreme Court. The federal judge(s) involved are required to file written opinions, setting forth in considerable detail the factual findings on which legal conclusions are based. Typically, remedial proceedings are not entertained until a second phase, after all issues of legal liability have been fully litigated and determined.

Federal judges are not permitted now, nor have they ever been, to base findings of liability on mere "racial imbalance". While it is true that they must find actual racial separation to exist, they are required by Supreme Court standards which predate Brown in 1954 to determine that the segregation is the result of official action or that the officials failed to act at a time a clear duty to act existed. The courts must also find that the officially-created segregation was the intentional action of the public officials and that there were other alternatives as,or more,sound educationally. Only if the plaintiffs, whether private or governmental, can prove all these elements are they entitled to judicial relief.

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[14] For example, the lawyer who represented the Boston school officials, until he left to represent President Nixon during the Watergate hearings, was James St. Claire. In Cleveland, Columbus and Dayton the lawyers representing the school officials came from the largest or among the largest firms in town.

Examples of the type behavior federal courts have used as a premise for findings of liability are below.

In Reed v. Rhodes, the Cleveland school case, the court held:

> "These defendants, on numerous occasions, deliberately chose to separate black children bused into a white school from the white children already there, keeping then in intact racial enclaves which included classrooms, recreation, use of toilet facilities, eating, arrivals and departures. Few instances of overt segregation were found on this record to match these instances of "intact busing" for their dehumanizing impact upon small children. In those instances where school officials did make a decision to "disperse" these children within the receiving schools, often "dispersion" became an additional act of segregation. In some instances the black children "dispersed" to white classrooms were forced to sit apart, eat apart, recreate apart, and use toilet facilities at separate times."15/

In Brinkman v. Gilligan, the Sixth Circuit said about Dayton:

> "Dunbar High School had been established on a district wide school for only black students with on all black faculty and a black principal...black students throughout Dayton automatically were assigned or otherwise were induced to attend Dunbar...and in many instance black...crossed attendance boundaries to do so...until 1947, Dunbar was not allowed to participate in the City Athletic Conference and consequently, Dunbar athletic teams played other all-black high schools from other cities."16/

15/ 455 F.Supp. 546, 563 (N.D. Ohio 1978)
16/ 583 F.2d 243, 249-250 (6th Cir. 1978)

In Penick v. Columbus Board of Education, Judge Robert Duncan said:

> " In 1941 all black teachers in the system were employed at Mt. Vernon, Garfield, Pilgrim or Champion Schools, all predominantly black schools. By 1943, five schools were attended almost exclusively by black children, and the facilities of each were composed almost exclusively by black teachers. In September of that year the entire professional staff of Felton School, composed of 13 teachers and a principal, was removed and replaced with 14 black persons. The same kind of 100% to 100% black facility transfer had occurred at the Mt. Vernon and Garfield schools in prior year. "[17]

The Supreme Court standards for federal courts prescribing school desegregation remedies are clear. As early as 1971, in Swann v. Charlotte-Mecklenburg Bd., the Court said:

> "Remedial judicial authority does not put judges automatically in the shoes of school authorities whose powers are plenary. Judicial authority enters only when local authority defaults...As with any equity case, the nature of the violation determines the scope of the remedy."[18]

In the typical school case at the remedy stage, the local school officials are instructed to come forward with the plan to correct the violations found by the court. If the plan offered by the local officials is adequate to eliminate and undo the segregation found by the court, then that plan is ordered into effect. If, but only if, the local officials fail to discharge their duty to come forward with a workable plan which will prove effective, "judicial authority enters" and devises the plan itself. Thus, the plans in Columbus and Dayton were devised by the local officials and adopted by the court, while the plan in Cleveland, like the one in Boston, was fashioned by court-appointed experts because of inability of local officials to carry out their duty. At the remedial stage, it is almost always the case that the level of court involvement in actual plan development or monitoring is determined by the competence of the local officials. Where the local officials are competent, the court defers; where the local officials demonstrate incompetence, the court steps forward and, as Chief Justice Burger held in Swann, "In default by school authorities of their obligation to proffer acceptable remedies, a district court has broad power to fashion a remedy that will assure a unitary school system."[19]

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[17] 429 F.Supp. 229 (S.D. Ohio, 1977)

[18] 402 U.S. 1, 16 (1971)

Unfortunately, most Congressmen have never had the opportunity to either see a school desegregation case in progress, nor read the records of those which have resulted in remedial decrees. This inability, in part a function of the great workload of our Congressmen, has resulted in operative ignorance which has been exploited by those whose arguments lacked persuasive power in the courts before which they were given, and who have attempted to use the hall of Congress to relitigate lost cases. The Congress should not permit itself to be made a tool for public officials whose conduct has been found violative of constitutional rights, and whose explanations have failed to justify the unlawful actions taken against the school children for whom they have been responsible.

19/ Ibid.

III. HYPOCRISY

Many of us recall the zeal with which Congressmen from the northern and western states criticized and lectured their colleagues from the South during the 1950's and 1960's while the spotlight of national attention was focused on Mississippi Alabama and Georgia. These Congressmen were quick to point out the national shame represented by laws which deprived American citizens of equal rights to schooling, housing, jobs, voting, public accomodations and elemental human dignity. And they were right.

When, however, the spotlight moved from Charlotte, Little Rock, Jackson and Birmingham, to Boston and Detroit and Los Angeles, all of a sudden these Congressmen and others began to have second thoughts about the indivisibility of American citizenship. What was right for the southern goose was not necessarily right for the northern and western gander. It is instructive to note that the National Association of Neighborhood Schools was started in Columbus, Ohio, not Little Rock. It is further instructive to note that it was a federal judge sitting in Boston who was required to remove a football coach from South Boston high school because of his unwillingness to permit black athletes to play and try out equally with white athletes.

The scope of the hypocrisy involved is made even more measurable when one realizes that in the southern states the local officials were forced by state laws to create and maintain the dual school systems for blacks and whites. In the north and west, local school officials created dual school systems in spite of the presence of state laws which forbade racial segregation. (State laws also forbade murder, arson, rape and theft--all of which continued to need judicial action, nonetheless.)

The double standard now being applied is one which would exempt the northern and western states from the constitutional requirements which had to be met by states in the south. The reality is that virtually all of the school systems in the southern part of the country have already gone through, and survived, the school desegregation process Congressman Mottl would now declare unconstitutional. In practical terms, the Mottl Amendment is a bill designed to hold harmless the constitutents of Congressman Mottl and others like him from northern and western states.

The Amendment would declare contrary to national policy and outside constitutional tolerance the assignment of students on the basis of race or color. It would purport to protect tender school children from wild-eyed federal judges who lurk in federal courtrooms waiting to impose educational mayhem. I would hope by now a mojority of the Congress is more sophisticated than to trivialize the Constitution by trying to launch pre-emptive strikes at the federal judiciary. This amendment must be seen for what it is--a pernicious attempt to wrest jurisdiction from federal courts to engage in fact finding so critical to the American system of jurisprudence. Or, if it would permit the courts to pursue the facts, it would have an even more harmful impact by prohibiting them from acting to correct conditions their fact-finding showed to exist. This would be tantamount to taking from the courts the jurisdiction to hear rape cases, or cases dealing with murder, or arson or robbery.

I can think of few things more greatly guaranteed to send this country back into the halycon days of street turbulence and national unease than for this Congress to close black people off from effective access to the federal courts. If, after facing gerrymandered political lines in most communities across the country, and having to accept unequal service delivery and allocation of public resources, and if after we have been told so consistently to "work within the system" and"play by the rules", we are now to have the rules changed and the courthouse door as closed to us as the school house doors used to be, America will have many sleepless nights. People like me will have been rendered useless, because we will have no credibility when we counsel our people to pursue "legal paths" toward problem resolution. We will be viewed as fools, or liars.

There will be many who will feel that an America which is prepared to rig even its judicial system against blacks is willing to pursue policies and actions which are very similar to what we have come to expect from South Africa. In such a state of affairs, why should our youth, or their fathers and mothers, have faith in the promise of the Constitution , if it can be so easily prostituted to serve such clearly racist purposes?

My organization, and many others who believe as we do, pledge our support to any efforts which are designed to find solutions to the difficult problem of creating and maintaining quality, unsegregated public schools in this country. We are not doctrinaire; nor do we believe that there is any magic to old approaches. We do believe that one must be able to replace something with something, rather than simply tear down what has been done.

School desegregation, in community after community in this country, has proven to be an experience of great educational and citizenship importance. Most of all, it has proven that it is possible to run public school systems without forced segregation of young children, without discriminatory hiring and assignment of faculty and other staff, without discriminatory tracking of children into dead-end academic curricula, and without training our young people to be simply clones of their racially-distorted parents. In virtually every school district in which it has been carefully measured, school desegregation has been shown to be accompanied by learning advances for black and other minority children, and no learning detriments for white children.

I offer no suggestions for improving the Mottl Amendment. This is an evil bill, with which no compromise is possible in the context of the historic promise of America. We recognize that many are concerned about school desegregation remedies, and seek new approaches. We would join them in such a search. The Mottl Amendment is not a search for new approaches, it is a simple-minded declaration that there is no problem worth solving. That is not a declaration which can be improved; it can only be rejected.

We call upon this Committee to reject the Mottl Amendment, and to use its considerable prestige to help the rest of the Congress understand why this ostrich-approach to fundamental problems of modern America must be cast aside. Tell them that the NAACP stands ready to join with them, and even with Congressman Mottl, in pursuit of sane and sensible alternative approaches to place alongside those approaches which, however unpopular, have worked. Black people did not invent buses as a vehicle with which to torment frightened white parents. In fact, for most of the history of this country during which buses were used, the record will show that black children were forcibly excluded from buses and forced to walk.

We are unconvinced that America is afraid of school buses. We know that the little yellow school bus is as much a part of the educational landscape as the fabled little red schoolhouse ever was. Well over half the children in this country ride buses to school, and 96% of those so riding do so for reasons unrelated to desegregation. That's why the Mottl Amendment does not propose to ban busing, only that minute percent which is related to undoing the official segregation.

We do not believe the American people will forgive a Congress which places a racial clause into the United States Constitution in the 1980's. Constitutions are forever. We believe the Mottl Amendment is borne out of momentary frustrations and striking ignorance, neither of which rise to the level of constitutional significance.

Thank you for the opportunity to be here today.

Mr. ATKINS. With your permission, I will not—I suppose not only your permission, but your thanks—repeat the remarks that are contained in this written statement. I would like to initially respond to what I understand to have been some of the questions and/or statements made and raised earlier.

Congressman Mottl, I am told, said that part of the problem with desegregation in Cleveland public school context was that desegregation took a public school system that was one of the finest in the country and has devastated it, in effect. I was in charge of plaintiff's counsel that tried the Cleveland case, Mr. Chairman, and without having any particular desire to catalog on this record the level of deficiencies, educationally, in that system, I would simply say that the Congressman's statement represents a lack of familiarity with the facts.

The Cleveland school system was outstanding, but only in two respects: No. 1, there had been built during the period immediately prior to the court suit more schools in Cleveland on a per capita basis than in any other public school system in the country. The trial showed that the other thing about the Cleveland system that was so unique was that virtually all of the school building that had taken place, either the new construction or the additions to existing construction, had been schools that were built—and indeed, as the record showed, designed—to be racially segregated. The Federal court found that in Cleveland, some 23 different techniques were used to cause the racial segregation that was used as the basis for the finding of liability against the Cleveland public school system.

So we are not talking about a system that started off at the pinnacle of American education. It was a system that was riddled throughout with educational problems, which came to be much more fully realized by the public, and exposed by the media once the trial went forward.

The thing about Cleveland, however, which is perhaps most significant, matched in recent times only by Boston, is the degree of defiance and resistance which characterize the response of the public officials. I have lived in Boston for the past 20 years. I was president of the NAACP chapter during the period back in the early 1960's when the school issue first began there; and during the period of 1974 up until 1980, during which time most of the implementation problems in Boston took place.

And I can tell you that Boston and Cleveland did share some certain unique features. In each community, the level of resistance was triggered almost exclusively, but not exclusively—almost exclusively, by public officials. And when public officials lead the charge against lawful orders of the court, the citizens, who rely on them, who look to them for leadership, are naturally going to be at least confused, if not misled, into actions that are themselves going to lead to disaster.

In Boston and Cleveland alone, of the two major public school systems of the last decade undergoing desegregation, the Federal courts were forced by the action of the school officials in their defiance and outright resistance of the court orders, to put varying aspects of the system under receivership. In Boston, initially it was South Boston High School, because of the actions that had taken place at the high school led by members of the Boston School Board. In Cleveland, the court appointed a desegregation administrator to whom was given an increasing amount of authority to administer the desegregation order of the court.

So I would say in those two instances, they shared a fatal characteristic, and that was outright, long-running resistance by the public officials to the court, and in each instance the resistance by the public officials outstripped that of the private sector.

I am not suggesting to you, Mr. Chairman, that there was not opposition or displeasure on the part of the private sector in either Boston or Cleveland. I am saying to you unequivocally and without any fear of contradiction that the public official resistance outstripped and led and usually triggered the private resistance. It was not a case of the public officials' even following the lead of the constituents, following the wishes of the constituents. They fanned the flames. And in Boston, they brought gasoline to pour on a spark and to start a forest fire. So I would strongly disagree with any suggestion by anybody that in Boston and/or in Cleveland good school systems were devastated by rapacious Federal court orders. Nothing could be further from the truth.

A second point I would like to make is—and this is discussed to an extent in my written remarks—much of the public discussion about school desegregation is simply premised on ignorance—ignorance of the process that takes place in the Federal court, which is the forum from which most desegregation orders these days emanate. One would think, in listening to the public debate, that school officials are being ambushed, are being held hostage by overpowering Federal forces; that they are being accused of things they didn't do, held responsible for things they couldn't change. Nothing could be further from the truth.

The typical school desegregation trial, whether in Charlotte, as my colleage, Mr. Chambers, can speak to with some authority, or in Boston, or Cleveland, or Los Angeles—those trials are meticulously litigated affairs. They are long running. The discovery that precedes the actual trial provides a full opportunity for school officials to flush out whatever allegations it is the plaintiffs are making, as well as for the plaintiffs to obtain the factual material to substantiate their allegations.

And when the trial itself is held, usually the law firm representing the school board is the best thing in town, and usually the most expensive one in town. In Boston, the Boston School Board was represented by Jim St. Claire until President Nixon preempted him for his Watergate defense. The school officials do not go into these proceedings unarmed or disarmed or without resources.

And the Federal judges cannot issue a single remedial sentence, never mind a plan or remedial decree, except after they have made specific written findings of fact pointing out not just that segregation exists, but showing that segregation that does exist was the result of the actions of the public officials—not private realtors, not people choosing to live with "their own," as the other saying goes—but the actions of public officials taken at a time when they knew what they were doing and when they had alternatives to the segregation they were creating.

The public officials must in short be found by the Federal judge to have intentionally created the racial segregation. Only then can a Federal court issue a desegregation order.

The standard is different in the Federal courts than in the State courts. It is much more severe in the Federal courts than in the State courts. State courts, based on constitutional provisions of their own particular States, may frequently require desegregation where no findings of fact of constitutional violation has been made. In some States, the standard is simply if it exists, if segregation exists, there's an obligation on local officials to address the problem. That is not the standard in the Federal court.

The standard in the Federal court is that unless there has been a proven violation of the Constitution, there cannot be from a Federal court a remedial decree. And the remedial decrees themselves, as described by the superintendent who spoke right before me, must be and are tailored to the factual circumstances of the communities in which they exist.

Having said all that, let me acknowledge, Mr. Chairman, school desegregation has neither been a panacea nor has it swept across the country at the head of a vast army of applauding supporters. School desegregation was not designed to be a popular mandate; it was designed to unsegregate public school facilities that had been segregated by public action. School desegregation is remedial in nature.

It was not designed to solve all the educational problems of school systems. So for those who say, well, there are still children in a desegregated school system who can't read—hell, the kids couldn't read before desegregation came, and to expect a desegregation order suddenly to, as with a magic wand, make everybody a 12th-grade reader at the 3d-grade level is silly, just a plain silly comment.

But the point is that yes, there has been opposition to school desegregation. Their opposition has been premised on a belief that even though public officials might well have themselves violated the law, the children should not be made to pay the price of the transgressions of the adult officials.

The problem with that line of reasoning, Mr. Chairman, is that it ignores that the real beneficiaries of school desegregation are the children. The black children who will be prevented from attending classrooms and in school buildings made separate and kept inferior by deliberate public policy of which they are fully aware; white children who will be spared the crippling racial prejudice and hatred their parents in all too many instances grow old with and die with—the children benefit. And what study after study, including, Congressman Washington, the study that came out yesterday from Vanderbilt, show is that where the old folks get out of the way, the young folks can make it work.

The children don't have problems with desegregation, and they don't have problems riding schoolbuses. No big deal for a kid to ride a schoolbus. The problem has been not with the children, but with the parents.

And the studies have shown invariably—the studies, the major studies that have been performed, have shown that black children have invariably improved educationally and that white children either have improved educationally, academically, and measurably so, or their academic performance has not been adversely affected. So they are either left where they are, or their academic performance is improved, as well.

Given those circumstances, the Mottl amendment, so called, represents an almost obscene effort by the public sector, by the highest instrument in our society, to not solve a problem. It represents a simple-minded approach that says there is no problem. The Congress cannot pass an amendment such as that. It would not just trivialize the Constitution; it would prostitute the Constitution, and for what end?

Would it make the problems of racism go away? It would not. Would it make the problems of education go away? Of course it would not. Would it make races in this country live together better? Of course it would not.

All it would do would say in a way devastatingly clear to blacks and other nonwhites in this country that the U.S. Government now closes the courthouse door, which has been the principal means used for opening the schoolhouse door. And what then would we have available to us? I shudder to think of the alternatives forced upon us should that happen.

I urge this committee to use its influence to reject this ill-advised, simple-minded, as well as simple-sounding amendment. There is no place in the American Constitution for a racial clause, and that is what the Mottl amendment is, plainly and simply.

Thank you, Mr. Chairman.

Mr. EDWARDS. Thank you very much, Mr. Atkins.

Our next witness is Prof. Nathan Glazer. Professor Glazer is professor of education and sociology at Harvard Graduate School of Education.

TESTIMONY ON MOTTL AMENDMENT BY NATHAN GLAZER

I support the amendment. I believe it expresses succinctly and directly a value to which all Americans hold—that they should not be differentially treated on the basis of their race, religion, or national origin. The opposition to this amendment comes from the belief of many that to overcome government imposed segregation on the basis of race and ethnic origin, assignment to schools on the basis of race and ethnic origin is necessary. I believe this is a fundamental error. Discrimination on grounds of race, ethnic origin, or religion is not to be overcome by further discrimination on the ground of race, ethnic origin, and religion: It is to be overcome by requiring in law and insisting in practice that people be treated as individuals, not as members of races, national origin groups, or religion.

The problem in the South and other states where state law required or permitted assignment to schools on the basis of race was that the normal practices that prevailed in other parts of the country—where children attended schools on the basis of residence, or special needs and interests—were not followed. Beginning in 1971 the Supreme Court began to permit and then finally to require not that these race-blind policies be followed but that new race-conscious forms of school assignment be imposed. These new race-conscious forms of school assignment, designed to equalize proportions of each race in each school to the extent practicable, have to my mind had disastrous results: (1) They have fixed and exaggerated in the American mind and conscience, which has been trying to escape from racial distinctions, the significance of race for school assignment, ability to enter special programs, suitability as a teacher or administrator; (2) They have separated school from neighborhood, with serious effects on the ability of parents to participate in and affect the school program; (3) They have contributed to extensive removal of white and middle-class students from public schools and extensive movements of white and middle-class families out of cities subject to enforced racially based school assignments; (4) They have not contributed to improved education for black students; and (5) They have not contributed to good race relations.

In Boston, to take one particularly hard case, after seven years of court-ordered and administered forced racial assignment of students, the school system had lost many thousands of white—and black—students, costs have risen greatly, and the reputation of the school system is as bad as it has ever been.

Court-ordered racially based assignment to schools cannot be defended on the grounds of its contribution to education, good race relations, or urban stability, though in the scores of places in which it has been implemented there are undoubtedly some where its effects have not been as bad as in Boston. Neither can it be denied on the ground that it defends constitutional rights. The American people thought in 1954 that what the Supreme Court was saying was that it was improper to treat a black child differently from a white child simply because of his race. They did not think that what it intended, as its recent decisions permit, was permanent assignment and re-assignment of children to school on the basis of their race or national origin. This is what the demand for desegregation has now come down to. I am not aware of any supporter of forced racially based school assignment who has told us when this practice, obnoxious to all Americans, will come to an end.

The Court has justified its position on the ground that this is necessary to undo the effects of state-imposed segregation. But as Justice Rehnquist argued in his dissents to the Dayton and Columbus cases, there was no evidence of any weight of state-imposed segregation in those cities. In effect, the Supreme Court had decided that any distribution of children in schools by race that does not mirror overall racial distribution in a school district is state-imposed. This was to radically misconstrue the realities, as University of Texas Law Professor Lino A. Graglia has argued so ably in "Disaster By Decree" (Cornell University Press, 1976).

We have now had ten years of court-imposed forced racial assignment of students to school on the basis of race and national origin. The matter must get more complicated as the numbers of students of varied Hispanic and Asian background increase in the public school. We may be faced, under present interpretation of constitutional law, with a situation in which students are divided into many racial and ethnic groups for purposes of determining which school they must attend: San Francisco's desegregation plan has four such groups, and there will undoubtedly be more if the historically ungrounded notion that concentrations of students of a distinct racial and ethnic background in schools because of residential concentrations is evidence of discrimination, and that such students must therefore be dispersed.

I would like to make three points as to what this amendment does not do, which may reassure those who are concerned about its effects, if it should become part of the Constitution:

(1) It says nothing as to what is unconstitutional segregation. The Supreme Court and other Federal courts are still available for suits that charge such segregation. If the standard developed in the Denver, Dayton, and Columbus cases holds, almost

any school district which maintains a system of neighborhood schools is probably liable to a finding of unconstitutional segregation.

(2) It says nothing as to what measures may be imposed by a court short of assignment by race, religion, and national origin. Thus, one remedy that is easily available if there is a finding of unconstitutional segregation is the requirement that every child, regardless of race or national origin, have the opportunity to attend a school where the racial composition is more to his liking or that of his parents. Another remedy is the placement of schools and programs geographically so that they may be attractive to both white and black students—e.g., placing a program attractive to middle-class white students in a ghetto-located school which has a high black percentage in its student body, or placing a vocational or arts program that may be considered attractive to black students in a school in a white neighborhood that normally has a heavily white enrollment. There are a host of other programs with a potentially integrating effect that have been and could be devised.

(3) Finally, the amendment only speaks to the action of Federal courts: There is no limitation in it as to what states and school districts may do on their own authority, or what other branches of the Federal government may do, to reduce concentrations of students in schools by race and national origin, and to encourage integration, if they are so minded.

I would finally like the members of this committee to consider the alternatives if this amendment does not become law. How long will it be required that children in the United States be limited in the schools they can attend because of their race and national origin? That is the specific and exact holding of present-day court-ordered desegregation plans. I do not know of any court that has released any school district from the requirement that school assignments be determined primarily by race and national origin, regardless of the desires of parents and children and ethnic communities. Is that the kind of permanent arrangement we want in America? If not, could the opponents of this amendment explain when this will come to an end?

Mr. GLAZER. I have a very brief statement, and I think I will read it, and then comment on—since I think we are a panel and should speak to each other as well as to the Congressmen here—and then comment on some of the points that have come up, which I also have some acquaintance with.

My statement says: I support the amendment. I believe it expresses succinctly and directly a value to which all Americans hold—that they should not be differentially treated on the basis of their race, religion, or national origin. That is what it says explicitly, and it is I think a value we all hold.

The opposition to this amendment comes from the belief of many that to overcome Government-imposed segregation on the basis of race and ethnic origin, assignment to schools on the basis of race and ethnic origin is necessary.

I believe this is a fundamental error. Discrimination on grounds of race, ethnic origin or religion is not to be overcome by further discrimination on the grounds of race, ethnic origin and religion. It is to be overcome by requiring in law and insisting in practice that people be treated as individuals, not as members of races, national origin groups, or religions.

The problem in the South and other States where State law required or permitted assignment of schools on the basis of race, was that the normal practices that prevailed in other parts of the country—where children attended schools on the basis of residence or on the basis of special needs and interests—were not followed.

Beginning in 1971, the Supreme Court began to permit and then finally to require not that these race-blind policies be followed, but that new race-conscious forms of school assignment be imposed. These new race-conscious forms of school assignment, designed to equalize proportions of each race in each school to the extent practicable, have to my mind, had disastrous results.

They have fixed and exaggerated in the American mind and conscience, which has been trying to escape from racial distinctions, the significance of race for school assignment, or for ability to enter special programs, or for suitability as a teacher or administrator.

Second, they have separated school from neighborhood, with serious effects on the ability of parents to participate in and affect the school program.

Third, they have contributed to extensive removal of white, middle-class students from public schools and extensive movements of white and middle-class families out of cities subject to enforced racially based school assignments.

Fourth, they have not contributed to improved education for black students. And I will refer briefly to the study that was published yesterday, and that Prof. Willis Hawley of Vanderbilt has been conducting. While I have not seen the most recent materials, I have seen earlier articles of Professor Hawley. And the point there is that Professor Hawley believes that racial desegregation will not hurt school achievement, or will improve it if we do a lot of other things, too like spend more money and improve education.

I would submit that that might improve education in any circumstances. But this is his position quite clearly as expressed in an article based on his research in "Law and Contemporary Problems," published by Duke, and the material I have seen in the papers from his latest study more or less supports it.

He thinks you have to do more than get the proportions right. You have to do a lot of educational things.

I would submit if you do a lot of educational things you might improve educational achievement anyway.

And finally, they have not contributed to good race relations.

Mr. **Edwards**. Will you forgive me for interrupting, but for the next short time we are going to have to recess. But, please remain, because we want to have a dialog. I'm very sorry we had to interrupt you at this particular time.

The subcommittee will recess, pending our visit to the Rules Committee.

[Recess.]

Mr. **Edwards**. The subcommittee will come to order.

Professor Glazer, again we apologize, and you may continue.

Mr. **Glazer**. I understand. I'm going to continue through my statement, because I make a few points there, probably more succinctly—better than I can make without reading it.

I had been arguing that I had not seen good effects from busing.

In Boston, to take one particularly hard case, after 6 or 7 years of court-ordered and administered forced racial assignment of students, the school system has lost many thousands of black and white students. Costs have risen greatly, and the reputation of the school system is as bad as it has ever been.

Since Mr. Atkins is an expert, I will concede immediately that its poor reputation is based on other factors as well as the problems that busing has created. And it's particularly unfortunate that elected officials should have—who oppose busing should have tried to make money from the contracts.

Court-ordered racially based assignment to schools cannot be defended on the grounds of its contribution to education, good race relations, or urban stability, though in the scores of places in which it has been implemented, there are undoubtedly some where its effects have not been as bad as in Boston or some that have been considered decent, as in *Charlotte-Mecklenberg*.

Neither can it be defended on the ground that it defends constitutional rights. The American people thought in 1954 that what the Supreme Court was saying was that it was improper to treat a black child differently from a white child simply because of his race. They did not think that what it intended, as its recent decisions permit, was permanent assignment and reassignment of children to school on the basis of their race or national origin. This is what the demand for desegregation has now come down to. I am not aware of any supporter of forced racially based school assignment who has told us when this practice, obnoxious to all Americans, will come to an end.

The Court has justified its position on the ground that this is necessary to undo the effects of State-imposed segregation. But as Justice Rehnquist argued in his dissents to the Dayton and Columbus cases, there was no evidence of any weight in those cases of State-imposed segregation in those cities.

In effect, the Supreme Court had decided that any distribution of children in schools by race that does not mirror overall racial distribution in a school district is State-imposed. This was to radically misconstrue the realities, as University of Texas Law Prof. Lino A. Graglia has argued so ably in "Disaster By Decree."

We have now had 10 years of court-imposed forced racial assignment of students to school on the basis of race and national origin. The matter must get more complicated as the numbers of students of varied Hispanic and Asian background increase in the public school. We may be faced, under present interpretation of constitutional law, with a situation in which students are divided into many racial and ethnic groups for purposes of determining which school they must attend.

San Francisco's desegregation plan has four such groups, and there will undoubtedly be more if the historically ungrounded notion that concentrations of students of a distinct racial and ethnic background in schools because of residential concentrations is evidence of discrimination and that such students must therefore be dispersed, prevails.

I would like to make three points as to what this amendment does not do, which may reassure those who are concerned about its effects, if it should become part of the Constitution:

One, it says nothing as to what is unconstitutional segregation. The Supreme Court and other Federal courts are still available for suits that charge such segregation. If the standard developed in the Denver, Dayton, and Columbus cases holds, almost any school district which maintains a system of neighborhood schools is probably liable to a finding of unconstitutional segregation.

Two, it says nothing as to what measures may be imposed by a court short of assignment by race, religion, and national origin.

Thus, one remedy that is easily available if there is a finding of unconstitutional segregation is the requirement that every child, regardless of race or national origin, have the opportunity to attend a school where the racial composition is more to his liking or that of his parents.

Another remedy is the placement of schools and programs geographically so that they may be attractive to both white and black students—for example, placing a program attractive to middle-class white students in a ghetto-located school, et cetera.

There are a host of other programs with a potentially integrating effect that have been and could be devised. Congressman Sensenbrenner referred to such an approach earlier.

Finally, the amendment only speaks to the action of Federal courts. There is no limitation in it as to what States and school districts may do on their own authority or what other branches of the Federal Government may do to reduce concentrations of students in schools by race and national origin and to encourage integration, if they are so minded.

I would finally like the members of this committee to consider the alternatives if this amendment does not become law. How long will it be required that children in the United States be limited in the schools they can attend because of their race and national origin?

That is the specific and exact holding of present-day court-ordered desegregation plans. I do not know of any court that has released any school district from the requirement that school assignments be determined primarily by race and national origin, regardless of the desires of parents and children and ethnic communities.

Is that the kind of permanent arrangement we want in America? If not, could the opponents of this amendment explain when this will come to an end?

Mr. **Edwards**. Thank you very much, Professor Glazer.

The last witness on this panel is Mr. Julius Chambers. Mr. Chambers was counsel in the *Charlotte-Mecklenburg* case, and he is the president of the NAACP Legal Defense and Education Fund. It's a pleasure to have you here.

Mr. **Chambers**. Thank you, Mr. Chairman, and members of the committee.

As the chairman has pointed out, I serve as president of the NAACP Legal Defense Fund and have participated in the litigation involving *Swann* v. *Charlotte-Mecklenburg Board of Education*.

I have been asked to discuss the constitutional questions underlying school desegregation. What does the Constitution require? What have been the constitutional violations that have prompted court-ordered desegregation? Are race-conscious remedies necessary? What would proposed constitutional amendments such as House Joint Resolution 56 mean for the future of school desegregation?

In answering these questions, I will discuss primarily the efforts to desegregate the Charlotte-Mecklenburg school system.

I would begin by first addressing the issue that I think has escaped a number of the proponents of resolution, such as the one in question.

In Charlotte-Mecklenburg, we began in 1965 with litigation challenging a school district that had purposely segregated schools within the system. The Charlotte-Mecklenburg schools were in a very large district, encompassing both the city and county and involved, at that time, over 80,000 students. There was no question, as found by the district court, the court of appeals, and the Supreme Court, that those schools had been purposely segregated by State action.

The question was the remedy that would be necessary to eliminate those vestiges of purposeful discrimination.

The court first in 1965 suggested that the board might employ racially neutral attendance zones. That plan was approved by the district court in 1965 and by the Court of Appeals in 1966. The court also authorized the board to provide transportation for students who wanted to transfer from schools in which their race was in a majority to schools in which their race was in the minority and to provide transportation.

There were efforts to develop some schools, similar to what we hear described today as magnet schools. These efforts failed. There was simply no way to desegregate the Charlotte-Mecklenburg schools or to eliminate the vestiges of segregation that had been created by State action, except by some affirmative plan by the board, and if the board refused to do it, by the court.

In 1970, the district court found that what had been tried by the board and by the court, again in 1965 to 1966, simply did not work and that it was necessary for the board to develop a plan that would affirmatively disestablish segregation.

The board began by some drawing of attendance zones. These zones attempted to eliminate vestiges of discrimination as much as was possible through that means. That plan, however, still left the majority of black students and the majority of white students in racially segregated schools.

The court directed that the board develop a plan that desegregated all of the schools in the system. The board failed, and the court then employed an expert to assist in developing a plan. That plan required pairing of schools, redrawing of attendance zones, clustering of schools, and transportation.

Transportation was not new in Charlotte. Students prior to the court-ordered desegregation had been transported for several miles because the system involved a city and county unit. With court-ordered desegregation, the transportation distance was somewhat shortened, although a few more students were transported than previously.

The pairing and clustering of schools were not new, because prior to desegregation, the board had employed such plans to maintain segregation.

The redrawing of attendance zones was not new, because prior to desegregation, the board had similarly used redrawing of attendance zones.

Employing plans or means that had been used by the boards in other school districts, the district court directed a plan that racially mixed students in each school in the system and required transportation. That plan was approved by the U.S. Supreme Court, only upon a finding that the board itself had created the segregated system that the district court was trying to remedy.

The Court—the Supreme Court—made detailed findings that the relief directed by the district court went only to address the constitutional violations that had been established by the record.

I would like to speak to one point raised by Mr. Glazer. He asked when will this plan end. The Supreme Court addressed that issue in *Swann*. The Court said that once the system desegregated, the district court retained no jurisdiction to order any further desegregation. The school board, however, was free to continue changing attendance zones, providing transportation, if it decided that racially mixed schools were preferable for an educational system.

So there is, contrary to what has been suggested, a court decision stating when desegregation will end. Obviously, if the board opts for resegregating the schools, that creates a new violation that requires further redress by the court.

As the Supreme Court found in *Swann*, it was necessary to use race in order to desegregate the schools. It is impossible to talk about desegregating a racially segregated system without considering race. How can we expect a system that has been purposely segregated to be desegregated by simply talking about nonracial remedies? What, in fact, does that mean?

Does it mean that the board now will simply assign students and not consider race at all? It considered race in establishing the segregated system, and as the Supreme Court pointed out, it has to consider race in desegregating that system.

The proposal that is before the Congress now, that we are addressing, purports to prohibit the court from considering race in devising a remedy. This was brought out in several questions raised by Mr. Mottl.

Does that mean that we eliminate pairing and clustering of schools? Does it mean that we eliminate redrawing attendance zones? How can one talk about not considering race in developing a means for desegregation, if we say that we can still consider redrawing attendance zones in order to promote desegregation?

The proposal simply suggests that, despite the constitutional prohibition against racial segregation, we will have no remedy. Although it has been suggested that one possible remedy will be developing magnet schools, I know of no system where this has worked. It certainly didn't work in Charlotte.

We are told the students can have freedom of choice. Will that be with or without transportation? And if with transportation, are we still talking about busing? And if without transportation, how can a student in Charlotte in the inner city get to a suburban school without free public transportation?

In short, the amendment or proposal would simply rewrite the 14th amendment and provide that equal protection may be denied in public education.

I think that the amendment should be rejected and that it would pose a serious problem, not only for school districts that have not desegregated, but for school districts that have desegregated, for the following reasons:

As the superintendent of Charlotte-Mecklenburg has pointed out, since the plan of desegregation, the board has had to revise its plan on a number of occasions. Some of those plans were required because at the time the plan was initially approved, the board and the court knew that resegregation in some schools would occur.

Does the proposed constitutional amendment mean now that that board would no longer be able to redraw attendance zones, to pair schools, to eliminate segregation, if it decides that that is the preferable remedy?

Obviously, the proposal addresses what the district court may order. And as Mr. Glazer has pointed out, it does not address what the state may do. The amendment itself, however, poses a serious danger as to what the board in Charlotte may do, because the plans it has proposed over the years have been pursuant to the 1971 court order.

As the superintendent has pointed out, Charlotte-Mecklenburg has demonstrated that desegregation does and can work. It requires obviously the support of the community.

When the district court in 1970 reviewed what had happened in Charlotte-Mecklenburg following the 1965 order, it found that black students were assigned to racially inferior schools. Students in those schools were not being exposed to the type of educational programs that would permit them to develop as competitive members of society. Achievement scores on exams show that black students were suffering from the racially inferior educational program being provided by that system. That has been demonstrated, in school system after school system throughout the South, black students in racially segregated schools have simply been provided an inferior educational program.

It is only because of desegregation that black students in Charlotte-Mecklenburg have today been able to compete more effectively with white students in school, on standardized tests, in the community, and in employment opportunities. If that plan is revisited, if schools are resegregated and no relief is possible through the Federal courts, black students of tomorrow will be like those students in 1965, 1970, who were exposed to an inferior education.

I think that the courts in addressing desegregation in Charlotte and other school districts have, as Mr. Atkins has pointed out, meticulously considered whether there were State programs and actions which caused the problem, have meticulously considered whether the relief that was being directed was absolutely necessary to eliminate those vestiges, and have meticulously considered whether the relief extended no further than was necessary to eliminate that State-imposed segregation.

If Federal courts are deprived of the authority to address constitutional rights, black citizens in this country will have no means anywhere to seek relief. It is absolutely ridiculous to suggest that one can turn to the State courts to seek relief.

What State court in North Carolina would have required desegregation, even with the finding of racially imposed State segregation? What other agency of Federal Government besides the courts would have directed relief?

We have a history that we speak from. We went through efforts with Congress. We went through efforts with the executive branch of Government. We went through efforts with the States. We found no relief, not only in schools but in most other areas, except through the courts.

That is why we feel that this amendment, as well as others now before Congress, which would remove the jurisdiction of the Federal courts, would greatly impede efforts that have been recently made to provide an equal opportunity for all citizens in this country.

Thank you.

[The complete statement follows:]

TESTIMONY OF JULIUS LEVONNE CHAMBERS
BEFORE THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS OF THE HOUSE JUDICIARY COMMITTEE
SEPTEMBER 17, 1981
9:00 a.m.

Thank you, Mr. Chairman, for the opportunity to testify before the Subcommittee today on legal issues relating to school desegregation.

My name is Julius LeVonne Chambers. I am President of the NAACP Legal Defense and Educational Fund, Inc. I have served as counsel in numerous civil rights actions, particularly in my home state of North Carolina. Among the cases I have litigated is the Charlotte school desegregation action, Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971).

I have been asked to discuss the constitutional questions underlying school desegregation. What does the Constitution require? What have been the constitutional violations that have prompted court ordered desegregation? Are race conscious remedies necessary? What would proposed constitutional amendments (such as H.J. Res. 56) mean for the future of school desegregation? In answering these questions I will discuss primarily the efforts to desegregate the Charlotte-Mecklenburg school system.

Unconstitutional School Segregation

In 1954, the United States Supreme Court declared that public school segregation imposed or required by law violated the Fourteenth Amendment's guarantee of equal protection of the laws. The evil that Brown v. Board of Education was directed against were dual systems of education in which the separation of black school children was invidious and stigmatizing. In the eyes of state law, black school children were inferior and not fit to sit in the same room and be educated with white students. Brown declared that separate educational facilities are inherently unequal, and that black school children are guaranteed a constitutional right to equal educational opportunity.

Instead of complying with the mandate of Brown to dismantle dual systems of education, school districts and states erected barriers to desegregation. There was defiant outright opposition to law, as in Little Rock, or, more usually, the day-to-day reality of persistent massive resistance. For years, litigation continued, and desegregation was avoided and delayed. Throughout these years, black schools remained black, racial attendance zones remained, black students walked or were transported to black schools, black teachers were confined to black schools. Black school children who tried to transfer were made unwelcome and were subjected to threats to life and dignity. There were few exceptions.

The law of school desegregation after Brown v. Board of Education was decided proved to be a tale of futility and the failure of remedy. Until 1968, the Supreme Court waited patientlv for desegregation. Finally, the Court declared that dual systems of education must be disestablished "root and branch," and desegregation take place "now" and "immediately." The Court looked to the bottom line, and measured the various dilatory measures proposed by school boards by the only equitable standard in light of the years of delay--their effectiveness in achieving actual desegregation.

Charlotte, North Carolina is a microcosm of this period. Before Brown (1954), the Charlotte-Mecklenburg schools were totally segregated in law and fact. North Carolina had and enforced laws requiring racial segregation in almost all public facilities and activities including schools, colleges, orphanages, medical facilities, prisons, theaters, buses, trains, restaurants, tax records, zoning and restrooms. School segregation was substantially maintained long after 1954.

A school desegregation case was filed in 1965. After years of litigation, little desegregation had been achieved with freedom of choice, rezoning and other remedies proposed by the school board. The school board totally defaulted. Finally, the lower courts ordered a desegregation plan in which each of the schools in Charlotte-Mecklenburg reflected, within broad range, the racial composition of the district as a whole, and which relied on student transportation. The plan was fair and equitable, achieving effective desegregation and spreading the burdens equally among all students. In 1971, the Supreme Court upheld the use of student transportation in Swann v. Charlotte-Mecklenburg on the grounds that it was a valid tool to dismantle the dual system of education. The remedial principles established in Swann have been applied elsewhere to achieve effective and equitable desegregation, where assignment of children to the school nearest their home would not produce an effective school desegregation plan.

In recent years, the Court has recognized that school segregation created by the acts of school boards and states where there has been no state law also violates the Fourteenth Amendment. First, in Keyes v. School District No. 1, Denver, and then more recently in the two Ohio cases involving Dayton and Columbus, the Court has made it clear that racially discriminatory school segregation is not an evil limited to the southern states: the unconstitutional segregation of black school children on account of their race or color is a national problem. Unfortunately, today we are experienceing the same resistance to vindication of the constitutional rights of black school children in states outside the South that we had in the South throughout the 1950's and 1960's.

Student Transportation As A Remedy

The legal basis for student transportation is plain: it is a permissible remedy for unconstitutional school segregation.

The Supreme Court addressed this issue directly in Swann. The Supreme Court said, "Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation," 402 U.S. at 28.

Some would isolate busing from its moorings as a remedy for a constitutional violation. However, busing is designed to correct an illegality, and arises as an issue only in the wake of a court adjudication of a wrong committed. Courts order busing and other remedial devices only when it is necessary. Nor is busing a penalty: it is as the Surpeme Court held in Swann, "a normal and accepted tool of educational policy."

In Charlotte, for example, busing was not new. The Charlotte-Mecklenburg district is roughly 22 miles by 36, and covers 550 square miles. In 1968-69, there were 84,000 pupils in 107 schools. The busing ordered by the district court to desegregate the schools averaged seven miles and the travel time was not over 35 minutes at most. Under the previous policy, however, without regard to desegregation plans students at all grade levels were transported an average of 15 miles one way for an average trip requiring over one hour, and four and five year olds travelled the longest routes.

In Swann, the Supreme Court stated that "[d]esegregation plans cannot be limited to the walk-in school." 402 U.S. at 30.

> Bus transportation has been an integral part of the public education system for years, and it was perhaps the single most important factor in the transition from the one-room schoolhouse to the consolidated school. Eighteen million of the Nations' public school children, approximately 39%, were transported to their schools by bus in 1969-70 in all parts of the country.
>
> The importance of bus transportation as a normal and accepted tool of educational policy is readily discernible. ...
>
> Thus the remedial technique used in the District Court's order were within the court's power to provide equitable relief; implementation of the decree is well within the capacity of the school authority. 402 U.S. at 29-30.

Commonly, courts make efforts to safeguard the health and safety of children, and schools located in integrated neighborhoods are exempted. The Court also stated that "[n]o rigid guidelines as to student transportation can be given for application to the infinite variety of problems presented in thousands of situations." 402 U.S. at 29.

The federal courts have approached the question of remedy in school desegregation on a case-by-case basis. The courts have looked to the particular facts in each case, and weighed various remedial proposals from the point of view of which combination will work, that is, result in effective desegregation. Busing is a remedy of last resort; it is resorted to when other desegregative tools prove unworkable or ineffective. The desegregation order in one case necessarily differs from that in another case: each has been developed for a specific case and a specific set of facts and circumstances.

In the decade since Swann, student transportation has proved a critical and necessary component of many school desegregation plans. This is particularly true where school districts default in their responsibilities and subject their black students to discrimination long after their right to equal educational opportunity has been declared.

In reality busing is not the issue. The issue is whether unconstitutional school desegregation is to be effectively remedied. Most student busing has nothing to do with desegregation. Forty-one percent of America's school children go to school on buses; only 3% are transported for desegregation purposes.

Race-conscious Remedies

Student transportation is a remedy that the federal courts may permissibly use to right the constitutional wrong of segregation. Moreover, like busing, other race conscious remedies are not only permissible but may be necessary where there are judicially determined constitutional violations. As the Court held in Swann, all things are not equal in a system with a history of racial segregation. "The remedy for such segregation may be administratively awkward, inconvenient, and even bizarre in some situations and may impose burdens on some," 402 U.S. at 28. But the paramount concern for the courts must be to eliminate the constitutional violation, to eliminate from the public schools all vestiges of state-imposed or state sanctioned segregation. "Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies. ... The task is to correct, by a balancing of the individual and collective interests, the condition that offends the Constitution." 402 U.S. 1, at 15-16 (emphasis added).

Recently, a group of white parents and children brought suit against the Charlotte-Mecklenburg Board of Education for assigning pupils pursuant to the Board's 1978 pupil assignment plan. Martin v. Charlotte-Mecklenburg Bd. of Ed., 475 F. Supp. 1318 (W.D. N.C. 1979). The challenged pupil assignment plan was adopted pursuant to the Swann decision. The white parents argued against the plan because race, they alleged, was a major element in the assignments. I represented a class of black pupils who were allowed to intervene as defendants on the side of the School Board.

We successfully rebutted the plaintiffs' arguments that any consideration of race in pupil assignment in the Charlotte-Mecklenburg Schools is unlawful under University of California Regents v. Bakke, 438 U.S. 265 (1978). In an opinion that was affirmed by the Court of Appeals, the district court held that the pupil assignment plan is well within the constitutional authority of the School Board in light of the history of racial segregation in the Charlotte-Mecklenburg school system. Consideration of race in the assignment of students is appropriate where there has been specific judicial findings and administrative acknowledgments of the prior segregated status of the school system. Unlike Bakke, no one was disenfranchised, and plaintiffs failed to show any injury as a result of the School Board's considerations of race. "No one has 'stood in the school house door' and barred plaintiffs from an equal educational opportunity." Martin v. Charlotte-Mecklenburg Bd. of Ed., 475 F. Supp at 1345.

The Supreme Court declined to review the district court's decision in the Martin case, and denied cert several months ago. The mandate of Swann is still the law. Swann clearly contemplates race conscious efforts where they are necessary to remedy constitutional violations.

Efficacy of School Desegregation

The social science literature on school desegregation can be briefly summarized. Black students' achievement scores often improve when they attend desegregated schools. The achievement of black students is highest when desegregation begins at the lowest grades. No study has found that black or white pupils suffer academically from desegregation. Black students attending desegregated schools are more likely to go to college or enter the labor market than those deprived of the opportunity for an integrated education.

However, we do not need social science research to tell us what we all know intuitively. As the Supreme Court stated in Brown v. Board of Education, "[t]o separate [black children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." Desegregation removes black children from that situation. They are removed from a condition that society considers inherently unequal and stigmatizing. They are thus better able to learn, not only academic subjects but the values of a democratic society.

The experience in Charlotte has been precisely this, and it is the desegregation plan approved by the Supreme Court that has made it possible. In Charlotte, as well as other cities, educators have learned that desegregation has helped eliminate the fetters on the minds of black children, and freed them to achieve as much as they can. In recent years, the Charlotte School Board has independently recognized the need to maintain and operate a desegregated school system, and in the Martin case ably defended its actions in pursuing its main goal of quality education for all students. Against a challenge by the same group of lawyers who, since 1970, have been trying to nullify the Swann decision, the Charlotte Board of Education and the black intervenors successfully articulated the principle that desegregated schools are educationally desirable, and vigorously defended a race conscious pupil assignment plan as a necessary part of the main goal of quality education for all students.

Recent studies show that school desegregation can improve race relations, not just in the school system but also throughout the community. Indeed, a recent study demonstrates that metropolitan desegregation plans, such as that in effect in Charlotte, which involve both inner-city and suburban areas, contribute to significant increases in housing integration.* The Supreme Court in Swann had noted that intentionally racially segregated schools promote racially segregated neighborhoods. "Metropolitan school desegregation not only breaks into the school-housing segregation cycle, it sets up a very different dynamic. By opening up housing opportunities for minorities, by making the choice of an integrated neighborhood one that confers positive benefits, it supports the development of stable integrated communities." Thus, desegregation plans, if fairly and effectively implemented, are self-liquidating. In Riverside, California, the city with the longest experience with busing, after 15 years, only 4 of the 21 elementary schools require busing to racially integrate.*

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*/ Pierce, "Breaking Down Barriers: New Evidence on the Impact of Metropolitan School Desegregation on Housing Patterns" (Center for National Policy Review, Catholic University, 1980).

Constitutional Amendments

I would like to discuss efforts to amend the Constitution to prohibit federal courts from remedying unlawful school segregation. I will direct my remarks to H.J. Res. 56, introduced by Congressman Mottl, which undertakes, by an amendment to the Constitution, to withdraw from the federal judiciary the power to assign any person to any school on the basis of race, religion, or national origin. The conclusion is inescapable that the only purpose of this amendment, and its inevitable effect, are to obstruct the judicial protection of the constitutional rights recognized in Brown v. Board of Education. I am unalterably opposed to this amendment.

If this amendment is passed, the rights of the minority community to equal educational opportunity will become hollow and meaningless. The ability of the courts to remedy an unconstitutional condition will be nullified. The role of the judiciary will be altered fundamentally, and the competing interests at stake will have to be resolved without the guidance and leadership of one of the most important institutions of our government. I urge this Congress not to torture the Constitution in such a potentially devastating way.

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*/ Id.

I do not mean to be rhetorical or hyperbolic when I say that the constitutional rights of minorities, recognized finally by the Supreme Court in _Brown_ v. _Board of Education_ after years of litigation, could be swept away overnight were this constitutional amendment enacted. Under the Mottl Amendment, the courts would be prohibited from taking race into account in formulating remedies to desegregate the schools; they could not order even such race conscious student assignments as are necessary to accomplish the final abolition of segregated school systems as mandated by _Brown_ and its progeny.

Toward that end, the courts have held that race conscious remedies are permissible and sometimes necessary. In _Swann_ the Supreme Court emphasized that the court may exercise its remedial powers to implement student transportation and pupil assignment plans where there is a judicial finding of a legal wrong and other efforts to desegregate have not worked. Specifically the _Swann_ Court stated that the task of the court, "is to correct by a balancing of individual and collective interests, the condition that offends the Constitution." The judicial powers may only be exercised on the basis of a constitutional violation, but the courts must use those powers to ensure that the violation is cured.*/

Without a remedy, the right to a desegregated, equal educational opportunity will be in jeopardy. The constitutional rights at stake, however, go beyond school desegregation to the mandate for full equal protection of the laws. For example, this amendment might prohibit virtually every step that could possibly be taken to further equal educational opportunity on behalf of the minority victims of inferior, segregated schools. In this sense, the amendment would pro tanto effect a repeal of the Equal Protection Clause of the Fourteenth Amendment to the Constitution. Such a result is totally inapposite to our constitutional heritage.

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*/ In _Green_ v. _New Kent County School Board_, 391 U.S. 430 (1968), the Supreme Court held that freedom of choice or any other "racially neutral" student assignment policy is not a Constitutional end in itself; rather, any plan must be judged on its effectiveness. Also see _McDaniel_ v. _Barresi_, 401 U.S. 38 (1971).

Our history suggests that there are considerations of a broad and profound nature that mitigate against the type of constitutional amendment proposed by Representative Mottl. Constitutional guarantees of individual liberty and equal protection should not be taken away, tampered with or trivialized through the amending process. The amending process should not be invoked as a means of dealing with specific, controversial, and highly political concerns. The fundamental principles of our Constitution have endured precisely because the amending process has been used only to remedy basic defects in our constitutional structure. Restraint in the use of the amending process has protected, over time, the rights of both the minority and the majority. The integrity of the Constitution has been a source of our nation's greatest strength.

The Constitutional amendment at issue here takes away a permissible and sometimes necessary remedy from a constitutional wrong. The amendment also disturbs the integrity of the Constitution in a way that will surely provide dangerous precedent for future manipulation. Finally, the amendment eliminates the opportunity of redressing through the courts the massive and systematic injustice which preceded the Brown decision and which has continued to haunt life in America in the second half of the twentieth century.

W.E.B. Dubois said over 70 years ago, the problem of the 20th Century is the problem of the color line. The major issues in this country in this century have been just that: the extent to which the laws of the land should be applied equally to all persons and the extent to which the federal courts are empowered to order remedies to cure the unequal application of the laws. Representative Mottl's amendment would remove the federal judiciary from its Constitutional role, protecting and enforcing the rights of minorities in a forum that allows for the consideration and balancing of competing interests.

In the South, where Southerners have lived with busing and school desegregation for more than a decade, the issue of school desegregation is not the heated and emotional issue it was twenty years ago. We no longer see the massive resistance by white politicians who, "stood in the school house door", to block desegregation efforts.

I am proud to say that two years ago when a similar Constitutional amendment was introduced in the Congress, the North Carolina delegation voted 6 to 5 against the amendment. Representative Bill Alexander from Arkansas spoke for many of us in the South when he said, "The question of busing has been resolved. I can see no value in resurrecting it." (New York Times, July 25, 1979).

In large measure, the enforcement efforts and the remedial orders of the federal judiciary are responsible for the coming together of local school boards, white parents and the minority community. Brown v. Board of Education marked an historic moment in the evolution of the conscience of the nation. In the South, in interpreting Brown the courts have stimulated the public's own sense of moral responsibility. As Judge Goldberg of the Fifth Circuit Court of Appeals said in an interview recently, "The courts not only are heeded, but what's important in their being heeded is the voluntary [public] acceptance that the courts do speak for the moral heights of our society. And when they don't, they forfeit their responsibility."[*]

The Charlotte experience speaks directly to the issue of the important role of the federal judiciary in stimulating acceptance of the constitutional rights of minorities and cooperation with appropriate remedies. The district court in Swann made a complex factual inquiry before determining what constituted a constitutionally adequate desegregation plan. That court ordered desegregation plan has not only been implemented successfully, but the School Board and the community have now taken a generally enlightened view of their responsibility to desegregate the Charlotte schools. The ability to analyze the case on its own facts free from the political give and take of the legislature or the electorate made the federal court in Charlotte uniquely suited to exercise fully its discretion in fashioning a remedy, and earned the public confidence necessary for the remedy to work.

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[*] Quoted by Jack Bass, Unlikely Heroes, p. 328.

Conclusion

The courts have acted neither excessively nor irresponsibly in their efforts to remedy the unconstitutional condition of segregated schools. They have ordered race conscious remedies only in the absence of other means to eradicate adequately the effects of past discrimination. In fashioning these remedies, they have exercised their judicial and equitable powers only on the basis of specific factual findings of constitutional violations.

The courts have provided leadership and guidance to the American people in their efforts to resolve the great problems of the 20th Century. Proposals to amend the Constitution to undermine the role of the judiciary in this process carry the potential for inhibiting virtually all efforts to desegregate the nation's public schools. In addition to threatening the cause of racial equality, Mr. Mottl's proposed Constitutional amendment undermines America's tradition of protection of individual rights and liberties and endangers the stability and integrity of our Constitutional system.

Thank you very much Mr. Chambers.

Mr. Washington.

Mr. WASHINGTON. Thank you, Mr. Chairman.

Mr. Atkins, on page 1 of Mr. Glazer's report, we find the following language, which I'll read. I would like you to respond to it.

In the middle of the first paragraph—do you have it?

Mr. ATKINS. Yes, I do, Congressman.

Mr. WASHINGTON. "Discrimination on the grounds of race, ethnic origin, or religion is not to be overcome by further discrimination on the grounds of race, ethnic origin, or religion. It is to be overcome by requiring in law and insisting in practice that people be treated as individuals, not as members of race."

Would you comment on that?

Mr. ATKINS. I think it's an admirable goal, one with which I am in substantial agreement. The problem with it is that Mr. Glazer is about 300 years late in offering it as a standard for this country.

What we're facing now is a situation in which, if I may use an analogy, we've got a 100-yard dash, and it's 50 yards down the line. One person in the race has had an anchor tied to his leg. Mr. Glazer says, "Stop the race, take the anchor off, resume in your present positions, and run like hell."

I would submit to Mr Glazer that it would require a superhuman effort for the fellow who had that anchor to even stay in the race, much less even finish on time. That's what this suggests.

Of course, it would be if everybody treated everybody else as human beings, not as races or colors or religions. The problem is we're not in a society that started out with the standard, and we are now dealing with how do we remedy the past deficits so that in the future there can be equality of treatment with regard to special circumstances?

So, until those past deficits have been addressed, this suggestion is simply naive.

Mr. WASHINGTON. Thank you.

One other question: I was very intrigued with your analysis of the judicial process which, as you state, not very many people are privy to, evidently, based on their responses to desegregation and the establishment of the patterns of discrimination which lead up to *Brown*.

I'm also intrigued by the fact that you point out quite well that desegregation is not designed to cure all problems attendant to the various public school systems throughout the country. To me, that's key because it takes us into all kinds of areas, like testing, et cetera, ad infinitum. Would you expand that point a bit?

Mr. ATKINS. One of the most unfair criticisms of school desegregation plans, whether court ordered or developed by school systems voluntarily, is that they don't do everything. And that's true, but they weren't designed to do everything.

School desegregation orders are designed to unsegregate schools that have been forcibly segregated. That's what they are foremost designed to do. And to do that requires race-conscious measures. It requires recognizing that here is a school that was made all black, and here is a school that was made all white, and that because we still have a race-conscious society, simply eliminating the compulsion that created and has maintained the racial separation will not now eliminate the fact or the future existence of those schools. That's what desegregation does.

It says, in order to undo these two realities, the school that was made black, the school that was made white, it's going to require intervention, it's going to require action. But even if that's done, Congressman, a school system that has failed its children programmatically is, after desegregation, going to have to address the need for good programing.

So if the school officials in a particular district weren't teaching the children to read before desegregation, desegregation by itself is not going to make those children good readers. Along with the process and usually separate from the desegregation order itself, the school officials are going to have to address the other educational problems that exist, whether they be reading or whether they be discipline, et cetera.

Some of those problems are themselves infected with the prior discrimination, so it is frequently the case that a school system will have for the white children a good reading program and for the black children a bad or a nonexistant reading program.

It is frequently the case that a school system will have one standard of student discipline applying to students that are white and yet another standard applying to students that are black. In that instance, the remedial order, the desegregation remedial order, will also address those problems, but only if it can be proven that the prior discrimination had educational implications, as well as the physical separation. So the order has to be tailored to the factual circumstances in which it was generated.

Mr. WASHINGTON. I may as well have you join issue with some other people. Would that be your response to Mr. Raspberry, who was quoted?

Mr. ATKINS. I understand Mr. Raspberry was quoted. I haven't read the article that was mentioned. I wasn't here for the Congressman's remarks. I have, on occasion in the past, taken issue with Mr. Raspberry, and I don't know whether I would with this comment or not.

What did he say?

Mr. WASHINGTON. One of the things he said was that—I don't know how he measured this, but he said there was a tremendous amount of disenchantment in the black community relative to desegregation, the implication being that black people were not enamored or particularly happy about it.

Mr. ATKINS. I think it's true. I think it's absolutely true, that there has been disenchantment in the black community about desegregation. The disenchantment has been about the continued resistance of school officials, even in the face of court orders.

And after a point, when you've gone through one of these trials, Congressman, and you have been held to the high and rigorous standard of proof that prevails in a desegregation trial, and you have proven your case, and you have made the record, and you have shown an entitlement to a remedy, and an order from the court comes forward and here is some school board member or some superintendent of schools who thumbs his or her or their collective noses at the Federal courts and says, "The Constitution doesn't apply in my district," yes, the black community has become disenchanted at the notion that somehow or another, while it's easy to pick up black people and throw them into jail, it is not easy to apply constitutionally based remedial decree when a school official wants to oppose it.

We have become very disenchanted with that, but we have not become disenchanted with, however, the absolute necessity of liberating our children from the educational traps that segregated schools have constituted. And we will do what we must do wherever we must do it to pursue that.

Yes, we do get weary when the law is not enforced.

Mr. WASHINGTON. This conclusion is based upon your grass roots knowledge and your trials of cases throughout the country, your close proximity with the whole struggle for many, many years?

Mr. ATKINS. It is. And it's based on the fact that I also have three children who went through the Boston school system. Two of them were bused. One was bused as a part of the reassignment order. One was bused when he was in senior high school, and he rode public transportation. And the third one was not reassigned and transported and was angry because he was not reassigned, was angry because he was not transported, thought somehow he lost out on something. I never understood that. But I have lived with this problem in many different ways, and I have litigated cases in virtually all parts of the country.

I am so involved now that my notions are not theoretical notions, they are based on an analysis of school district actions and policies and practices in a way that most people don't have an opportunity to view.

Mr. Washington. One last quick question on busing. I think Professor Glazer stated that desegregation would occur without busing. I hope I'm not doing a disservice to his statement:

Can you comment?

Mr. Atkins. I think I remember Professor Glazer suggesting that even were this amendment to become part of the Constitution, there were other techniques for achieving desegregation which would still be permissible. And I think that's——

Mr. Washington. Was that "the melting pot," or was that "beyond the melting pot"?

Mr. Glazer. I said that today.

Mr. Atkins. I think there are certainly other techniques that have been tired in various places.

I agree with Mr. Chambers, that freedom of choice has never, in a single school district any place in this country, dismantled a forcibly created pattern of racial segregation, not in a single school system.

I have seen it in various configurations. The most extensive program of magnet schools combined with freedom of choice was to be found in Columbus, Ohio. They had a plan called the Columbus plan, and it was so complicated, with so many permutations and cross-combinations, that is was difficult to even describe it in the courtroom. But they had this plan, and it provided all of these options for children.

What happened was the black children opted out of the schools they knew were bad. The white children didn't think their schools were bad, even though subsequently they found, in part through the trial and in part through the testing, that their schools weren't so good either. But they thought their schools were better because they were whiter.

White kids aren't going to opt to go into schools that are black or schools that historically have been seen as black, because to have been or have been perceived as black in this country still is to have been perceived as inferior.

So the notion that there is going to be freedom of choice or magnet schools or other voluntary plans that are going to desegregate forcibly segregated systems is, at best, really optimistic.

Mr. Washington. The opponents of busing, though, are certainly persistant in that argument.

Mr. Atkins. It's the best one they've got.

Mr. Washington. I yield.

Mr. Edwards. Mr. Hyde.

Mr. **Hyde**. Thank you, Mr. Chairman.

Professor Glazer, what about the remedy for past deficits? What is your comment?

Mr. **Glazer**. Let me point out that we are dealing with two still very different situations. We have here representatives of a case in school desegregation which has been a success for a variety of reasons. We don't have any representatives—except for Congressman Mottl—here from Cleveland or from Boston or, to move on to less disastrous cases, Denver, San Francisco, Los Angeles, and so on.

I simply want to state this at the beginning, that there was a situation in the South which, I am convinced, was entirely different from that in the North. In the North you had neighborhood schools. In the South you had separated school systems.

Admittedly, if you have one standard which applies to the whole country, regardless of differences of history between communities, you're going to have problems.

I think you have much more severe problems when that single standard that is applied is a standard of busing to achieve equal racial proportions in each school, whether that standard is applied in Boston, Cleveland, Indianapolis, or Charlottesville, Mobile, or Richmond. I think it's much worse than when that standard is applied, than when the national standard Congressman Mottl proposes applies. Admittedly, when that standard is imposed, you have a kind of problem for the Charlotte-Mecklenburg situation.

We have heard the superintendent of Charlotte-Mecklenburg, and I believe in cases where communities are proud of what they have achieved, they are not going to undo what they have achieved.

Perhaps I've gotten away from your question, Mr. Hyde, in which case you'll correct me. But I felt there were a number of things that had to be brought into the situation.

As to your specific point as to remedy, I want to point out when people say magnet schools or freedom of choice, freedom to choose the school one wants, doesn't work, they are applying a very peculiar standard. They are applying the standard that it doesn't end up with equal proportions of each race in every school.

Well, that's a very strange standard. When would any policy ever end up that way? It's never been in the past. It will never be in the future. We'll never have equal proportions of Protestants and Catholics, or Jews and non-Jews, Italians and Chinese and Japanese in every school. You've always had concentrations.

So, when they say it doesn't work, they mean that a very artificial standard, which says that if there are 60/40 in the school district, it must be 60/40 in each school, won't occur.

But it does work if what you mean is that segregation, as an imposed requirement that you attend a school because of your race, is overcome. It does overcome that problem. It overcomes it because you have the choice to attend a school which you feel is superior for you.

And in terms of the not working, I've never understood why a great social movement, which Mr. Atkins and Mr. Chambers have been involved with, which has attempted to overcome a constriction, overcome racial requirements, has been so opposed to the alternative of freedom, a real freedom, because when there is a real freedom, there is a substantial response.

There are school districts where 30 percent of those who have the opportunity to change schools do so—I mean 30 percent of the minority group. If the rest do not want to change schools, that's their decision and their choice.

The notion that you are doing something for them by requiring them to move or you're doing something for them by requiring white students who don't want to go there to go there strikes me, in a word, as outlandish. You're not doing anything for them. If you're giving each one the freedom to choose, you are doing what I think any remedy requires, any remedy which is trying to correct for segregation or for forcible segregation.

Mr. HYDE. Unless you know more than the parents, unless your wisdom and your judgment is superior to the parents.

For example, in Chicago, we have a black school here and a white school here, black parents here and white parents here. Both have hired the same lawyers to resist forced busing between the schools, which has been determined by some officials to be the wise thing to do, not shared by the parents or the children. But some official knows better than the parents.

So, freedom isn't to be tolerated where somebody has made a judgment that they shall be integrated. That's a reality.

Do you see something wrong, immoral, illegal, fattening? Do you see something un-American with Jewish people wanting to live in a Jewish neighborhood because they're near a synagogue or Polish people wanting to live in a Polish neighborhood where some of them speak the same language or the stores sell kielbasa?

Ethnic neighborhoods—Italians kind of want to go to church, it may be that they speak Italian—is there something wrong with people wanting to live with people of a similar ethnic character and culture?

Mr. GLAZER. I see nothing wrong with that. I think that is part of our history, and I think it will be part of our history for some time to come.

I think what is wrong is there are things that are wrong that flow out of that, the exclusion of blacks from areas, burning their houses, preventing them from buying a house or living there, and so on. And that I think must be forcibly opposed, and the laws make it illegal every possible way.

Mr. HYDE. Absolutely.

Mr. GLAZER. Similarly, the notion—and these things have happened in the North certainly and in almost every community—of opposing black children entering a school and so on.

But I think the alternative to segregation and compulsion is freedom. And the alternative is not a new form of compulsion.

Mr. WASHINGTON. Would the gentleman yield?

Mr. HYDE. Surely.

Mr. WASHINGTON. I just want to point out that Congressman Hyde's allusion to an incident in Chicago is not typical of the black parents in Chicago relative to busing.

Mr. HYDE. It may well be. I've not studied it in depth. I just read the newspaper accounts, where you've got a classic situation of a black school and a white school. Nobody wants forced busing. They somehow have the mistaken and primitive notion that the neighborhood school is the place to send their kids.

Now, maybe the quality of education is equal. I don't know. We pretend that we want to give black kids a good education and they can't get it in the inner city. But I would like an answer to the Marva Collins phenomenon, where you've got one gifted teacher and, my God, any kid in Chicago, black, white, or Chinese, would love to be a student in her school.

But you know what the problem of—you know, you're in the education business—bad teachers, who ought to pass a test themselves once a year, you can't get rid of them once they're in. The unions won't let you. And the schools can't stand in loco parentis to the kids. The courts won't let you do that, or the ACLU won't let you handle disciplinary cases or go into their lockers.

But one gifted teacher can take an illiterate kid and turn him into a motivated, marvelous, educated youngster who has a bright future.

And if we could spend some time developing those teachers, encouraging excellence, and seeing that excellence is equally distributed everywhere, instead of trying to homogenize people away from their neighborhoods and their families, I think the educational level would go up, and I'd love to see more of that.

The discouragement of excellence among teachers by rules and regulations, union requirements—and I understand the motivation, protect the job, but this discourages—one last thing. We put Indians on reservations and we build schools for them. Why don't we integrate them into society. Why do we insist on integrating the black and the white communities, but we insist and structurally isolate the Indian community?

Could you respond to that, professor?

Mr. GLAZER. Now you have raised a very large question.

First of all, a lot of Indians are now living in the community. I think that creates additional problems for our desegregation policies. And certainly in California that is going to get very complicated with the large new Vietnamese, Korean, and other communities.

On Indians, I think there is presently a strong feeling among many Indian leaders, and particularly leaders from reservations, on having Indian-run schools. I know that is true at the higher levels, at the community college level. And I assume there are many Indians who are in a reservation situation, who feel that they can create an educational environment suited to those who will remain there and live there.

I think that there is no such thing as a uniform policy, as I said before, that applies to every city. And I think there is no such thing as a uniform policy that applies to every group.

Since that is a complicated question, I will stop there.

Mr. HYDE. It sure is.

Thank you. I yield.

Mr. EDWARDS. Professor Glazer, apparently *Charlotte-Mecklenburg* was a classic southern situation where the blacks were segregated on purpose, put off in cheap schools, and the whites were very well taken care of. Over and over again we saw this. And we saw it in the North to a certain extent.

And we saw it, according to Judge Garrity, in Boston, too.

Tell me, what should have been done, rather than what they did in *Charlotte-Mecklenburg?*

Mr. GLAZER. Well, it is very hard to argue with success. What happened in *Charlotte-Mecklenburg* is presented as—and I've heard nothing different—that it has worked out a success. Maybe that was the best solution for *Charlotte-Mecklenburg.*

It is my judgment—it is a kind of feeling I have, and this, I think, will explain some of the differences between the successes of *Charlotte-Mecklenburg* and some other southern areas, perhaps some of the large metropolitan districts, Florida I understand, and so on—that if a community has in truth segregated blacks from whites, it may feel more responsibility to undo the entire system and do something very different.

If a community feels it has not done that—and that I think is a serious factor in situations like Cleveland and Boston—regardless of marginal cases of school zone gerrymandering or school location and so on, if they have felt on the whole they were conducting a legitimate neighborhood system, it may feel less responsibility. I'm not suggesting undoing the past. I think just as you cannot undo all the effects of the separated schools of the South no matter what you do, there is history, I don't think you can undo the effects, or should try to undo the effects of the busing programs that exist. I realize that leads to certain complications.

But even in *Charlotte-Mecklenburg,* I would have thought a system of voluntary choices in *Charlotte-Mecklenburg*—and by voluntary choices, I mean busing to other schools, to other schools in the district, to better schools, combined with other things—would have satisfied the parents and children of Charlotte and the county, and would have led, with the same kind of investment of educational energy, to the same effects that we have heard of from Mr. Robinson today.

Mr. EDWARDS. Do you think that would have worked, Mr. Chambers?

Mr. CHAMBERS. We had the experience of a freedom of choice, as I indicated earlier, from 1965 particularly through 1969 and 1970. It simply didn't work, and it simply won't work.

Contrary to Professor Glazer's statement that there is some mythical difference between the South and the North, obviously we had constitutional provisions and we had statutory provisions that required segregation of the races.

I gather from what he said, that the remedies that have been employed in the South are acceptable, and that they should not be limited by the constitutional proposal that is now before the Congress. He addresses more the need for different remedy in the North.

The decisions that I've seen in the North have found that there was an effort, or that there were actions by the State that created the segregated system—the same situation that we had in the South.

And if his position is that if there is a State-imposed segregation, the relief should be as the courts have directed, then I guess we would be somewhat together. And that is all the courts have directed.

But, if his position is that you can get the relief that has been directed in the South only if there has been a constitutional amendment, and he would ignore State-imposed segregation, then our positions would materially differ.

Responding further to your question, we have seen efforts at voluntary desegregation in the North, and those efforts failed just like those efforts failed in the South. What we have is some efforts by some blacks to transfer to white schools, and the black schools remained racially segregated. As Mr. Atkins pointed out, white kids are not going to transfer into the inner-city black schools where the state has provided an inferior education.

Responding also to some of the questions raised by Congressman Hyde, to ask is something wrong with racial groups or various religious groups deciding that they prefer to live within their own community and to attend their churches or synagogues, or to attend their schools, ignores the problem that we have been addressing in school desegregation. What we have is a State-imposed exclusion of blacks from various schools; a State provision, or some state action that says to a black family, "You cannot send your kids to the school" or, "You must stay in this neighborhood."

In that sense this is no different from what we see in many areas in South Africa. And we have had it right here in this country in the North and in the South. Black parents are asking, "Why doesn't the Constitution provide some relief from the State telling me that I must reside in an inferior community without adequate housing, without schooling? Why don't I have the opportunity to move where I want to?"

Blacks have simply not had equal education or housing opportunities in this country. That is what the Supreme Court pointed out in Swann, when it said if we had the ideal situation, we would not have to direct this type of relief. We simply haven't had that ideal situation.

Mr. HYDE. Would the gentleman yield?

Mr. EDWARDS. Of course.

Mr. HYDE. I'd like to involve Mr. Washington in this dialog, because I am genuinely seeking some information I don't have.

Would you say, Harold, that the teachers in the black neighborhoods, on the South Side of Chicago, or the West Side, are inferior to the teachers on the North Side of Chicago? And if so, why? Because they are from the same union.

Mr. WASHINGTON. Henry, I don't think we should clutter up this record with dialog between the two of us. We can discuss that later.

Mr. HYDE. The purpose of busing is to guarantee every child an equal education. That's what equal protection of the law means. And I just don't see that they have been denied that equal—all over the country. I'm sure there are plenty of places where that is true. But in a big metropolitan area like Chicago, and other places, the money, the school buildings have been poured into the south side. Not everywhere, but there are plenty of beautiful——

Mr. WASHINGTON. As to your first comment, Henry, it isn't a question of teacher quality——

Mr. EDWARDS. I'm going to recognize Mr. Atkins, but take the privilege of pointing out that the Supreme Court said, segregated schools are necessarily unequal, and it is a violation of the constitutional right to segregate black kids in a black school.

Mr. **Washington**. Mr. Chairman, there's another point——

Mr. **Hyde**. You and I can continue to talk later.

Mr. **Washington** You made your remarks on the record, sir.

Mr. **Hyde**. Let me just ask—let me ask one more question, then I'll not clutter this up any more.

Mr. Chambers, you were satisfied with the results you got in the North Carolina Federal Court, is that right?

You didn't trust the state courts, but you were satisfied with the Federal court?

Mr. **Chambers**. Yes, we were pleased with the results that we obtained through the Federal courts.

Mr. **Hyde**. That was the North Carolina Federal Court?

Mr. **Chambers**. That was a North Carolina Federal District Judge.

Mr. **Edwards**. With life tenure.

Mr. **Chambers**. With life tenure.

Mr. **Hyde**. That's true of every Federal court in the South, as well as the North.

We have a problem on this committee. We think the only court that can do a job is the District Court of the District of Columbia. We didn't know that out in the boondocks you could get justice in the Federal courts with that life tenure. So, I appreciate that.

Mr. **Chambers**. I would point out to the Congressman, that we have had decisions in North Carolina before Federal district judges, whom we have had to appeal.

Mr. **Hyde**. You win some, you lose some all the time, don't you, in your practice? I found that to be true, too.

Mr. **Edwards**. Mr. Atkins?

Mr. **Atkins**. Mr. Chairman, Congressman Hyde, I have followed with some interest, the Congressman's remarks and positions with respect to the other matter to which you referred, namely the Voting Rights Act. And I should say that I have been gratified at the Congressman's very open search for information, and willingness to have facts determine positions.

I think it is important here, too, Congressman. For instance, there really isn't a difference in that kind of gerrymandering which takes place in an electoral context, in which a district is made either black or white or Republican or Democratic on the one hand, versus that kind of gerrymandering which takes place in an educational context in which a school board decides to make a school black or white.

Mr. **Hyde**. You must be shocked at California's new proposal, I dare say.

Mr. **Atkins**. Congressman, I don't shock easily.

Mr. **Hyde**. If that doesn't shock you, then you are immune. But, go ahead. [Laughter.]

Mr. **Atkins**. I think the point is—and it is a point that both Mr. Chambers and I have come back to repeatedly—that there is no difference between a school segregated by force through a State law such as North Carolina had, versus a school segegated by force such as you have in Chicago, by action of the school officials.

Now, you raised a question about the situation in Chicago, whether or not the presence of teachers that are black on the south side, and teachers that are white in other districts, ipso facto means that there will be inequality.

Point No. 1 is, why are all the black teachers in Chicago on the South Side? Answer——

Mr. HYDE. Is that true? I didn't know that was true.

Mr. WASHINGTON. It is more or less true.

Mr. ATKINS. It has been true that the Chicago board deliberately refused to assign a black teacher to teach a white child, because they assumed white parents would not accept it. And they placed black teachers in black schools without regard to black parents saying we want black teachers. That ain't why they were there.

Mr. HYDE. Are you sure of that, Mr. Atkins, about Chicago?

Mr. ATKINS. I'm absolutely positive of that.

Mr. HYDE. Because it is my understanding that seniority plays a role in——

Mr. ATKINS. I understand.

Mr. HYDE. Teachers get to choose where they want to go.

Mr. ATKINS. I understand that.

Mr. HYDE. And some of them want combat pay for certain communities.

Mr. ATKINS. Congressman Hyde, I would be delighted to give you, not my analyses, but the analyses that have been done over a period of approximately 17 years by the Federal officials in the Office of Education, the Office of Civil Rights, and the Justice Department.

Now, I would suggest that it would be instructive for you to see what their analyses were of the Chicago situation, because it's a very good example of what the problem has been outside the South. The problem has been that the schools in Chicago were made racially segregated by manipulation of attendance boundaries; by deliberate placement of buildings——

Mr. HYDE. But there are neighborhoods—I've lived there all my life—there are neighborhoods that are white and Jewish and Polish and Italian and black, and people like their kids to go the neighborhood school, not spend their mornings on a bus, and their afternoons coming home.

Mr. ATKINS. But the neighborhoods, Congressman, the neighborhoods in Chicago, have been made segregated by the schools in Chicago, rather than the other way around. Now that's what the record will show.

What you will find is that school segregation in Chicago consistently led to residential segregation, and that it was not neighborhoods that tipped the schools, it was schools that tipped the neighborhoods in Chicago. That's what the facts will show.

And they will show that at a point in time in the 1950's, and particularly in the mid-1960's, when Chicago had a tremendous population boom, disproportionate in black and white communities, they had great overcrowding in the black schools and underutilization in the white schools. Superintendent Willis, rather than reassigning, which would have been the normal educationally sound thing to do, reassign the black kids from the overcrowded black schools to the underutilized nearby white schools, built the Willis

Wagons and crammed them in on the black sites, to maintain the segregated pattern.

The Chicago record shows one in which optional zones were built between side-by-side black and white schools to permit white children to escape their neighborhood school which happened to be black.

Mr. HYDE. The result today is you have 85 percent minority in the public school system in Chicago, and you've got 15 percent majority, which is a contradiction in terms, and we are going to homogenize those 15 percent, which isn't going to work.

Mr. ATKINS. I think nobody would sanely recommend that a desegregation plan in Chicago be one which would result in each and every school having 85 percent minority, 40 percent black and 37 percent Hispanic, and the rest be white. Nobody is going to suggest that, so that is a strawman, Congressman. That's not the proposed remedy for Chicago.

Mr. HYDE. The white flight from the school system is a reality.

Mr. ATKINS. But it is not being caused by desegregation, because you have had none in Chicago, and we both know that. There hasn't been a single act of desegregation in Chicago from the period of 1960 when we started trying to get some through our branches in Chicago, up until 1981, despite a Federal Justice Department consent decree which was supposed to produce a little bit.

Mr. HYDE. Can Professor Glazer answer?

Mr. GLAZER. I know a lot has been said, and I am going to say very little, but one of the things I am going to say is that when black teachers went into black schools because they wanted to, or because the principal wanted one or felt it was a good idea, this was declared unconstitutional by Judge Garrity in Boston. In other words, the issue was even the kind of distribution of teachers by race that might be considered by all of us, I think, desirable and nonobjectionable, based upon individual values and individual choices, has also been used as the basis for finding the Boston public school segregatory.

Mr. ATKINS. That is absolutely inaccurate.

Mr. GLAZER. That is absolutely true. It's in Judge Garrity's decision, and I refer you to the decision, which of course you know very well. He referred to the case of a former colleague of mine testifying—and you remember who he was. He then was the desegregation adviser for Cleveland, and a black man who was involved in trying to get the best teachers into the schools where they would serve best.

And Judge Garrity used his testimony to impugn the Boston School Committee, which he had many other grounds to do, to say it was therefore segregating teachers, when it was trying to provide a black male teacher in a school where it would be a good idea, and where blacks are asking for it. I just want to say that is in Judge Garrity's decision.

The second point I want to make about segregated schools leading to racial segregation, residential segregation, that is just not the way it happens. It didn't happen that way in Boston. Blacks started moving in. They started moving into Jewish areas. Those areas then changed over from black—from Jewish to black. That's the way it's happened in every other city, Cleveland, Chicago, Cincinnati.

Mr. **Hyde**. The 24th Ward in Chicago was a bastion of Jewish politics and culture. It now has been totally black. It's happened in Chicago, too.

Mr. **Glazer**. The residential concentrations themselves reflect discriminatory action as one can find, but they were not choices because of school. It was not the case that if a black lived in the white area, as they did in many cases, that they could not attend the white school. That's not what happened in the North. And therefore it is, quite in error to assert these patterns of racial concentration were created by school factors. I think one has nothing to do with the other. And I think there is a dispute among social scientists on this. But I think it is to be quite in error for this point of view to prevail.

Even in the Boston situation, where I think far more segregatory actions by the school committee were found than in let's say Dayton or Columbus or other cases—even in Boston, an analysis by a demographer showed that if the Boston schools' zones simply consisted of the areas around them, period, done by a computer, they would have been more segregated than they were when the case started. They were less segregated than if they had been simple community schools.

Why? Because there were mechanisms to move out of segregated schools. There were schools which one could go to by choice, and so on. So the notion that the school committee through its actions was making the schools more segregated than a simple neighborhood system would have made is simply not so. Now, I know the judge found differently, and we respect the judiciary, but I have looked at that situation, I have looked at his evidence, and it just ain't so.

Now, these may be incidentals. I think probably the crucial issue is regardless of how this came about, what are remedies that more or less a substantial majority of Americans can agree on and I feel the free choice remedies, the free opportunity remedies, the remedy that says no one is going to be confined to a school he doesn't like, will find more general acceptance than the remedies that say, "You must go here because you are white, and you must go there because you are black."

Mr. **Hyde**. If the Government will provide transportation. It's not enough to say that you can go to this school, if you can't get there. So you must provide a voluntary busing-type situation.

Mr. **Glazer**. I'm speaking only of the principle, obviously. It must be supported with free transportation. It must be supported with information, knowledge, and so on.

Mr. **Edwards**. Mr. Chambers?

Mr. **Chambers**. I just want to respond briefly to those propositions. All of the cases that I know of in the North that have required school desegregation have been cases where the court specifically found, contrary to the suggestion just made, that the school board had purposely segregated the schools. In those instances, with this proposed constitutional amendment, the court would have been without any authority to direct any type of relief.

Mr. Glazer suggests there ought to be freedom of choice. What type of remedy would be available if the court finds purposeful segregation and freedom of choice or magnet schools don't desegregate the schools? Is he suggesting now that we leave all those schools racially segregated by State action? What happens to the community that is racially segregated by State action?

If the courts are powerless to act, is he suggesting that we leave those schools, those communities, racially segregated? What is being proposed, because the free choice plans that we have seen simply don't work, is that we permit and authorize by a constitutional amendment a racially segregated society, and that is not what I think the Constitution is about, or what we ought to be about as we develop policies for our Government.

Mr. EDWARDS. Thank you.

Mr. Washington?

Mr. WASHINGTON. Just one final question, Mr. Atkins. You commented recently on the Justice Department's response to the Chicago desegregation plan. Would you comment for the record on that, Mr. Atkins?

Mr. ATKINS. The question, Congressman, requires me to set the stage for those who may not be as familiar as we are with what happened. Last year, the Justice Department filed a lawsuit against the Chicago board and superintendent, claiming or alleging that there had been widespread segregation caused by deliberate actions of those officials.

That lawsuit was simultaneously settled by a consent decree filed with the Federal court, the principal provisions of which called for the development of a desegregation plan which will go into effect of September of 1981; and that the plan would meet constitutional standards. That consent decree was accepted and ordered into effect by the judge of the Federal court there.

What has happened subsequently is that Chicago has resisted every effort to comply with the schedule it agreed to in the consent decree, and the Justice Department has caved in to the Chicago delaying tactics. Now, that's the short story. The most recent action by the Justice Department was to join with the Chicago board in an extraordinary request to the Federal court that it approve Chicago's shameful delay in coming up with the desegregation plan, which it had said it would do. And our view is that in this administration, none of these amendments are necessary.

They don't need a Mottl amendment, they don't need a Johnston amendment, they don't need an East amendment, because they're not going to do anything, anyway. The Justice Department has made it perfectly clear, as the saying goes, that school desegregation is not something about which it gives a damn.

However, for those who, as Professor Glazer has, views these subjects in academic context, theories can't flow without relevance, without any particular requirement that they be supported by fact. That's the difference in what he is talking about and what Mr. Chambers and I have talked about. We have litigated cases and had to look at facts. He has thought about what would be a nice situation in an academic vacuum, and I could agree with him in terms of the vacuum.

But I contend that to say that for instance the Jewish community that was in Dachau was there by choice is to use a distortion of language. Had there been a school built in Dachau, it would not have been voluntarily Jewish.

Neither are the schools built in Chicago voluntarily black on the south side, because the south side of Chicago is not voluntarily black. We have to see the whole picture.

Mr. WASHINGTON. Chicago is in the same category as Cleveland and Boston. Public officials have been the real key to the obstruction of desegregation.

Mr. ATKINS. Not only obstruction of desegregation, Congressman; but unless public officials have been involved and have created the problem, Federal courts have no jurisdiction to order a remedy.

Mr. WASHINGTON. I yield.

Mr. HYDE. By the way, Congressman Marty Russo's wife teaches in a virtually all-black high school. I am going to have to talk to her about integrating the teachers.

Mr. WASHINGTON. That's an interesting tidbit for the record. [Laughter.]

Mr. HYDE. Well, she's a resource person for this committee. Professor Glazer, you are an academic, and by definition an ivory tower type.

Do you find living in Boston is living in a vacuum on the busing issue?

Mr. GLAZER. I live in Cambridge, and even that's not living in a vacuum, because Cambridge is beginning in a modest way a desegregation program under state pressure, nonjudicial.

But I have testified in some of these cases. I have examined them. I read the newspapers. And I think I have not spoken from the point of view of a vacuum.

Mr. EDWARDS. Well, those bells you hear over your head tell us that this very, very creative dialog must be ended, and we thank the witnesses very much.

[Whereupon, at 12:25 p.m., the hearing was adjourned.]

SCHOOL DESEGREGATION

MONDAY, SEPTEMBER 21, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2237, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Don Edwards, Kastenmeier, Schroeder, Washington, Hyde, and Lungren.

Staff present: Janice E. Cooper, assistant counsel, and Thomas M. Boyd, associate counsel.

Mr. Edwards. The subcommittee will come to order.

We begin today's hearing with two distinguished colleagues, Congressman Parren Mitchell and Congresswoman Bobbi Fiedler.

Congressman Mitchell, our distinguished colleague from Maryland, has been a tireless and effective advocate for human rights in this House for many years and has been a source of great assistance to this subcommittee in many of our endeavors.

Mr. Mitchell, we welcome you here today and you may proceed.

TESTIMONY OF HON. PARREN J. MITCHELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Mitchell. Thank you very much, Mr. Chairman and members of the subcommittee.

To my left is Miss Arnita Hannon of my legislative staff.

First of all, I want to thank you for allowing me the opportunity to testify before the subcommittee this morning.

Second, I want to commend you for putting on these hearings. I must say at the very outset, I think the efforts to thwart the regular legislative process through subcommittee hearings and full hearings is not a desirable thing and I am greatly distressed over the attempts of some Members of Congress to thwart the regular legislative process by various techniques that I will speak about later.

I have a written statement. I would ask unanimous consent that that be submitted for the record in its entirety, and I speak to some of the salient points.

Mr. Edwards. It is so ordered.

Mr. Mitchell. For a number of years we have been going through many, many attempts to achieve school desegregation, some of them voluntary and some of them mandatory. However, this problem of busing to achieve school desegregation remains a very complex and controversial issue.

I think this Nation and Congress face a real dilemma. The dilemma is that on the one side all of us advocate that America's objective is to achieve a desegregated society. On the other side, the other part of the dilemma is that there are those who would use various tactics to avoid achieving a desegregated society.

It raises serious questions in my mind as to whether or not this Nation is really committed to all the principles embodied in the Constitution, in the Bill of Rights, whether it is committed to the ethos of the American society, which says we shall have a desegregated society. I have serious questions about that, particularly in the light of some of the more evil and venal propositions that are being advanced against busing to achieve school desegregation.

I serve on the Banking, Finance and Urban Affairs Committee, I serve on the Housing Subcommittee thereof. I also serve as the chairman of the Subcommittee on Housing Minority Enterprise and Economic Development for the Congressional Black Caucus. For as long as I can remember, even before coming to the Congress, I have struggled to try to achieve decent desegregated housing in this nation. Some of the members of this subcommittee, some of the Members of Congress have fought against red lining, have fought against condo development, fought against all of the attempts that are made to continue discrimination in housing.

I run what is called a brain trust on housing. We meet quarterly, people from all over the country. They are not paid to come, they come at great sacrifice. They address the issue of housing problems and other issues.

From those brain trust meetings that have been going on for 10 years, to me it is patently obvious that, despite the advances that have been made under civil rights legislation, there are still some groups, blacks, and Hispanics, who are simply denied an opportunity to live where they want to live, where they can afford to live. To me it is patently obvious there are some groups in America, despite existence of a fair housing law, who are denied the wherewithal to achieve home ownership.

There is still discrimination in the banks. It also appears to me, based on the testimony and the hearings that we have had in our subcommittee and in our task force, that there are demographic variables which affect the whole matter of whether you have segregated housing or not. Thus we come to the problem that some scholars allude to, whether or not you achieve desegregated housing first and, if you do that, then desegregation of the schools will take place, or whether or not you achieve desegregation of the schools and then you will achieve a desegregated housing pattern.

I would submit to the committee that there is reciprocity, it has to be done simultaneously. You have to push on both these fronts in order to achieve what I hope is the objective of America, that is a society in which race and creed and religion is not a factor for discrimination.

A lot of arguments have been made saying that the matter of desegregation of schools really leads to white flight. That is simply not true. We have an abundance of evidence to point out that when schools are desegregated in a meaningful fashion, there is a greater tendency for residential integration to increase rather than for white flight to increase.

I would commend to the subcommittee an article written by Dr. Wiliam Taylor, with the Center for National Policy Review, in which he logically, cogently advances this argument, that if indeed you move toward desegregation of the schools, you will not have white flight.

I think it is also very clear that whenever anyone labels a neighborhood a black neighborhood or white neighborhood, then you set into motion a whole series of things to perpetuate racism and prejudice and discrimination.

There is no question that, despite the passage of fair housing legislation, despite all the protections we have under the law, real estate interests continue to steer people. If it is a white person they will steer them away from the neighborhood that is defined as being primarily black, and if it is a black person they will attempt to steer them away from the neighborhood that is labeled primarily white.

So much furor has been raised about this, the matter of busing to achieve school desegregation. I think it is blown tremendously out of proportion. Only about 7 percent of all the children in our public schools are bused each year, and that is a minute portion of the large number of students bused on a daily basis. I think it has been placed entirely out of proportion by those who argue that the courts have gone berserk, and that people don't like busing to achieve school desegregation. They forget that busing occurs under court order only if there is illegal segregation, and an intent to segregate, or only if there is no other remedy for relief of that kind of situation.

I am appalled by the House of Representatives in which I serve, approve the amendments that are constantly proposed to curtail the Justice Department from enforcing the law. I am appalled that we would have a discharge petition which far to many Members of the House have signed in order to force this issue and to thwart the will of this committee and the orderly process of legislation.

I am appalled by these things because I think, without any question, we do violence to the issue of separation of powers on which America is built; we certainly do violence to the Constitution.

For example, what in the name of God would happen if we went through with a discharge petition calling for a constitutional convention? There are no precedents. We don't know what would happen; given the mood of some of the people in the Congress and in the Nation, you might see an attempt not only to stop busing to achieve desegregation, I remain convinced there are those who would like to change the 13th, 14th and 15th amendments. There is an enormous danger, it seems to me, in attempting to force a constitutional convention on this issue.

As I understand, there are two pieces of legislation before you, H.R. 761 and 1180 by Congressman Ashbrook of Ohio and Congressman McDonald of Georgia. Of course I bitterly oppose both of those pieces of legislation. I submit to you that they are irresponsible. They are certainly irresponsible in the sense that they usurp the powers of the Federal courts.

Ladies and gentlemen, if there is one thing that has held this Nation together, it is the traditional separation of powers, and I think it is highly irresponsible for anyone, be it a Member of Congress or not a Member of Congress, to propose to usurp the powers of the Federal courts.

I further submit that I think we must continue to use all the methods available to us. Of course busing is only one method. There are other methods. The magnet school concept, for example, has been implemented. We have achieved some degree of school desegregation. But I for one would not rule out the use of busing if we intend to really achieve an integrated society.

I would hope that as a result of these hearings that somehow or another this subcommittee will become the impetus and your full committee will become the impetus for resuming the position that I think America should take, the position that says in essence: Where there is inequality, we must act to end inequality; where there is injustice, we must act to end injustice; where there are factors present which thwart the full achievement of people in terms of being equal full citizens in this society, then we ought to get rid of those factors as best we can.

I do thank you for allowing me to be here and I would like to respond to any questions that you might have.

[The statement of Congressman Mitchell follows:]

STATEMENT OF HON. PARREN J. MITCHELL

Mr. Chairman, first of all, I deeply appreciate the opportunity to testify before your Subcommittee on an issue which is so vital to our children, parents, neighbors, and affected institutions, which provide our foundations. You and the members of this body are to be commended for focusing attention on the impact of school desegregation initiatives, particularly in the face of attempts to thwart your authority to fully consider said issue.

While we are well aware of numerous voluntary and mandatory techniques to achieve school system desegregation, the use of busing continues to be the more complex and controversial topic. Indeed, busing, or the elimination therein, remains the core of our dilemma, since, purportedly, the goal of desegregation is generally shared by most people. I continue to seriously wonder if there does not exist a contradiction in supporting such a goal and opposing the use of busing as a tool to achieve this objective.

As a Member of the Banking, Finance and Urban Affairs Committee's Housing Subcommittee, I continue to work with my colleagues there for the betterment of all neighborhoods, with decent, affordable housing being at the base of this attainment for members of every economic stratum. Unfortunately, serving in this capacity, along with my position as Chair of the Congressional Black Caucus' Housing Subcommittee, I know that the reaching of this objective remains a dream. Decent, desegregated housing, and attractive, stable neighborhoods for all of our citizens would provide one of the optimal bases to precipitate the natural integration of our school systems. I do not believe that there is one among us who would not like to see this. Moreover, we have worked, and continue to work for this. We push to combat redlining, condominium conversion, banking practice discrimination, and other policies which militate against the availability of decent residences for all our nation's families. We unabashedly champion the provision of adequate numbers of subsidized housing units for our families with school aged children, with the hope that the availability of sufficient educational facilities will become a natural part of the immediate environment. Despite our efforts, many of us constantly hear horror stories concerning just how prevalent the continuation of many of our enemies is. During the quarterly Housing Braintrust, which I conduct, and through direct dialogues with constituents, I hear many residents, both inner city and rural, attest to overt and covert housing discrimination. Indeed, in some areas of our country such policies are almost accepted as facts of life. These facts—that some racial groups simply will not be allowed to live peacefully in some neighborhoods; that some racial and/or religious groups may never be able to obtain home-ownership loans and loans to improve property in certain neighborhoods; and, that some racial groups will never move to fully integrate some attractive neighborhoods due to other demographic variables, are sometimes startling. Unfortunately, these incidences cannot be wished away, and we must not deny our children equal educational opportunities during the time which we adults are taking to address the fundamental impediments.

As a Representative from an urban area, I am aware that many scholars suggest that the feasibility and advantage of stable, integrated neighborhoods as an alternative to intermetropolitan busing should be explored. I have no argument against such exploration; in fact, I endorse this. Again, however, while we are exploring, we cannot ignore the fact that such neighborhoods are still not as prevalent as should be, and we cannot jeopardize the access to adequate schools for our children. Additionally, if we can explore such concepts as alternatives, we should not discount the fact that there may be reciprocity. Specifically, other scholars profess that desegregated schools are a prerequisite for the achievement of residential desegregation. If we look at the long-range implication here, the unarguable, inevitable association between metropolitan-wide school desegragation and housing desegregation could well lead to a diminished need for busing. The necessity for integrated housing patterns is precipitated by busing, and such results can be beneficial (November, 1980—Center For National Policy Review—Catholic University, study by Diana Pierce).

Let us look further, and combine the objectives of integrated neighborhoods and school system desegregation. Additional studies by the Center For National Policy Review, and specifically an article by its Director, William L. Taylor, reiterate the fact that "when schools are desegregated on a metropolitan basis, the process actually leads to increased residential integration rather than to 'white flight.'" So the growing evidence contradicts such assertions that desegregation efforts merely exacerbate the move toward suburbanization. In fact, Taylor cites the pattern of residential integration as precipitated by school desegregation in such communities as diverse as Racine, Wisconsin; Wichita, Kansas; Riverside, California; and, Charlotte-Mecklenburg, North Carolina. On an additional note Taylor documented the comments of the Wichita School Superintendent, Alvin Morris, regarding the fact that black students live in practically all the school districts' 74 attendance areas as compared with only seven or eight before desegregation. Morris stated, "I think this was brought about predominately by our integration plan."

The Taylor study should jar the thinking of all of us who are concerned about housing patterns and stable neighborhoods. The courts have recognized the fact that when schools are labeled by official practice or custom as "black" or "white," families tend to cluster around them on the same racial basis. A positive consequence of school integration comes as real estate brokers become less and less apt to steer home-seekers along racial lines. *Then* we are moving toward one of the solutions for no longer having to bus—the prevalence of integrated, stable neighborhoods which might foster the growth of schools which would attract children from various social, economic, academic, and racial backgrounds.

My close work in the area of housing gives me a special interest in housing patterns as they relate to school desegregation efforts. However, I am glad that the Subcommittee will be examining the impact, effect, circumstances, and costs of desegregation initiatives. Such analyses will, hopefully, break the growing mentality that busing runs counter to the protection of our children's general welfare. Specifically, I am disturbed by the charges against this mechanism which are evident in my constituent mail. And, if these intense hearings accomplish nothing else, I do hope that they provide the much needed clarity surrounding the busing issue. Surely, the short-sighted efforts to eliminate the remedy altogether just do not fairly serve our constituents with all of the facts, and I think my Colleagues will agree that we do owe them that much.

Along this avenue, we have to tell our constituents that, under current law, a court may order busing only if it determines that a school system is illegally and intentionally segregated, and no other alternative remedy will effectively eliminate the segregation. Therefore, my earlier mentioned optimism about a purported national consensus to eliminate segregation can never stand on its merit if we and our constituents do not at least speak to the need for additional alternatives and ways to improve the use of busing as a remedy. We must also be honest enough with our constituents to inform them that the continued incorporation of the amendment into the Justice Department authorization bill to preclude this department from participating in court action seeking to impose busing as a remedy, does not change the standards under the current busing law. As we in the legislature know, the amendment places no restrictions on the courts or private litigants, and does not prevent the courts from ordering busing when it is required. However, the amendment sets dangerous constitutional precedent which goes beyond the parameters of school desegregation and into, a violation of the separation of powers doctrine; a violation of the 14th amendment, and, a threat to the entire federal aid-to-education program (refer to analysis by The Association of The Bar of the City of New York Committee on Federal Legislation-included in packet). Let us also inform our constituents clearly that similar constitutional questions will be raised as this very Subcommittee considers H.R. 761, and H.R. 1180, both of which would, ostensibly, extinguish federal court jurisdiction in cases involving federal court-ordered school busing. Both Congressmen Larry McDonald and John Ashbrook, respectively, are attempting to usurp the powers of the federal courts, and have introduced these measures as alternatives to their initial call for a constitutional amendment to accomplish this end. The Members' efforts are intensified further by their attempts to utilize the Discharge Petition to deny adequate review by Members of this House who are charged with such responsibility. I find such efforts irresponsible, and I truly question any purported commitment to school desegregation from these Members or their supporters.

I believe that our sincere commitment to providing equal educational opportunities for our children should best be demonstrated by continuous work in improving both mandatory and voluntary methods. For example, the concept of magnet schools which specialize in special subjects and, therefore, attract a variety of students, has worked in many areas and we should work harder for more of these. Moreover, our local residents can ensure that both mandatory and voluntary desegregation plans are tailored to the needs of their community from inception, and rechannel the energies spent fighting the busing of less than 7 percent of our children for desegregation into improving the facilitation of this necessary remedy.

Let me close by stressing that we have no right to impede the facilitation of equal educational opportunities for our children. Our personal prejudices, well cultivated due to our adult stage of life, cannot obstruct the choice for our children to live and grow in an atmosphere which will be free from such ugliness. If we stand in the way of such tools as embodied in comprehensive school desegregation plans—to include busing—we never will foster an atmosphere of choice for our youth. I do hope that we heed these warnings since academic pursuit continues to provide one of our strongest foundations. We cannot progress in its absence. We can only stagnate.

Thank you.

Mr. EDWARDS. Thank you very much. As usual, your eloquence is deeply appreciated.

Before I yield to the gentleman from Wisconsin, I think we should point out that these hearings are on no particular piece of legislation. The two pieces of legislation you mention are indeed in another subcommittee. However, most of the constitutional amendments, including Mr. Mottl's constitutional amendment, have been referred to this subcommittee.

Mr. MITCHELL. I thank you for that correction. No matter where they are, in my opinion they remain pernicious pieces of legislation.

Mr. EDWARDS. I am not surprised that you feel that way, Mr. Mitchell. We are examining in depth the whole problem of school desegregation. The last time this was done was nearly 10 years ago, by the House Judiciary Committee and Senator Mondale's subcommittee in the Senate. We think it is high time to bring the entire subject up to date.

Mr. MITCHELL. Thank you.

Mr. EDWARDS. With that I recognize the gentleman from Wisconsin, Mr. Kastenmeier.

Mr. KASTENMEIER. Thank you, Mr. Chairman.

I would like to commend our colleague on his presentation. We know he has been a leader in this field for many, many years, and a source of very great expertise.

I would say parenthetically that, yes, the two bills that are not in this subcommittee, on jurisdiction of the Supreme Court, are in fact in the subcommittee which I chair. And I was very pleased to see in the last few weeks that the American Bar Association, not a liberal bastion, would overwhelmingly reject the notion that we should strip the Supreme Court of the United States or the lower Federal courts of the jurisdiction to deal with not only busing but other issues as well.

Given the perspective of many years now of busing—and it does appear that the target of opponents of school busing is court-ordered busing—do you believe that you can defend the court in every case as having wisely decided what plan to implement?

Mr. MITCHELL. Congressman Kastenmeier, of course I am not familiar with all of the cases, but in those instances that I am familiar with, I think the Federal courts have acted very wisely in ordering busing only as the last resort. When the court runs into deliberate intransigence on the part of local school boards and local authorities and, after a period of suggesting, pleading, recommending that intransigence remains, it is my impression, it is my best recollection that busing has been the last resort to be employed, and it should be the last resort.

Mr. KASTENMEIER. What other options might have been availed of if not busing?

Mr. MITCHELL. Well, I referred to the magnet school concept. That has worked in my city of Baltimore and it has worked in other parts of the country. This is where you bring together several disciplines, several approaches, and children because of their interest in a particular discipline, a particular approach, move to that magnet school. It serves an entire regional area of a political subdivision. That is very successful.

I must also point out that it certainly seems to me that where our enlightened southern school districts have moved in terms of voluntary segregation it has worked; it has worked because there has been a commitment on the local head of the political subdivision, be it a city council, mayor, or what have you, a commitment on the part of the local school board that it is going to do the right thing.

I am constantly amazed that we have achieved as much school desegregation as we have in our Southern States on a voluntary basis now. That stands in sharp contradistinction to the kind of resistance that has occurred in California, the Far West, Midwest, and in other portions of our Nation.

I guess the bottom line, Mr. Kastenmeier, goes back to the question I raised: Are those people in charge of the entire educational process in a local political jurisdiction, or jurisdictions if you are talking about metropolitan busing, are they really committed to the idea that this society ought to operate absent identification based upon race or religion or any other outward sign that has been used by people to discriminate against various groups?

It is a question of commitment. Nothing will work, nothing will work unless there is a real commitment, nothing short of court-ordered busing will work unless there is a real commitment at the local level.

Mr. KASTENMEIER. For example, if you were brought in as an arbitrator in an area, whether Boston or some other place where a great deal of bitterness and resistance built up over the prospect of court-ordered busing, do you think any other solution might have been resorted to other than that which, for one reason or another, produced such very great resistance and bitterness?

Mr. MITCHELL. I am reasonably certain that other solutions were offered before busing was ordered by the courts. I think the busing orders came down only because there was a rejection of other possible solutions.

Again, it would seem to me if there is so much bitterness, then that is all the more reason for attempting to achieve some kind of school desegregation, because for as long as you allow people to remain bitterly polarized, over the long haul you make the job much more difficult of achieving a desegregated society.

Mr. KASTENMEIER. My last question is: If there is a minority group in a given community, not necessarily a racial minority group, that desires not to be integrated because of, let's say, cultural or language affinity, should the school systems be integrated, notwithstanding their resistance?

Mr. MITCHELL. I believe that they should. By way of illustration, if you take that out to its furthest analysis, could we have those who are of Czechoslovakian origin say, "We don't want to be bused because we are Czechs," those of Croatian origin saying, "We don't want to be bused because we are Croatians," you arrive at an absolutely ridiculous kind of arrangement which I do not think is workable.

Mr. KASTENMEIER. The same would go, we don't want to be bused because we are Spanish-speaking or we don't want to be bused because we are black?

Mr. MITCHELL. Let me point out, a number of members have talked on the floor, saying "My people"—strangely it is black people become their people when talking of school desegregation—"My people don't like it."

Well, you have to remember when we were caught up in the struggle, in the crucible of moving through that civil rights decade, it wasn't a monolithic response from the black community. Any number of blacks said, "Oh, you are stirring up trouble; you should enter gradually." The black community is not a monolithic community.

I certainly don't think the Congress nor the courts should accept the arguments proffered by such groups.

Mr. EDWARDS. The gentlewoman from Colorado, Mrs. Schroeder.

Mrs. SCHROEDER. I want to pursue a bit further the situation in Baltimore. You say in Baltimore they have put in a magnet school concept?

Mr. MITCHELL. Yes, several magnet schools.

Mrs. SCHROEDER. That has worked to desegregate the school system of Baltimore?

Mr. MITCHELL. Yes; it has. One is in the Mount Washington area of Baltimore, where the curriculum is so diversified they can pull students from all around the city.

Mrs. SCHROEDER. That was not done by court order?

Mr. MITCHELL. No; that was not done by court order.

Mrs. SCHROEDER. You do elect your school board?

Mr. MITCHELL. The school board is appointed by the mayor.

Mrs. SCHROEDER. But it could have been a political problem for the mayor if the school board had done something people didn't accept?

Mr. MITCHELL. Oh, I am sure that it could.

Let me say my best recall of the situation in Baltimore when the *Brown* decision first came out was the then-superintendent of schools, his name escapes me, said, "This is the law, we are going to abide by it." That set a tone, it seems to me, that was enormously beneficial to us.

Mrs. SCHROEDER. I guess one of my problems in this whole area is, we all know that the court doesn't have a whole basketful of tools that they can implement. They really don't control the teachers, magnet schools and other alternatives. So they get forced into busing. They don't know what else to do.

The real challenge is, how do we get school boards to respond so the court doesn't get dragged in? In other words, when the school board isn't responding, the only alternative left if you want to enforce the law I think is the court; I do not know where else you would go.

Mr. MITCHELL. I think you are precisely right. And frankly, I would like to see a situation in which the Federal courts are not involved in this at all. I would certainly like to see local school boards, local political jurisdictions, come up with a solution, work away at it, sell it, have educational seminars in the community, enlighten people as to what is involved and bring about that which is consonant with the democracy in which we live.

Congresswoman Schroeder, it is only when that does not occur that the courts, as you indicate, are forced to enter into the issue.

Mrs. SCHROEDER. The thing that disturbs all of us about the courts is they are based upon an adversary type of setting, where you force the polarization of the issues. What I have never been able to figure out is why some school boards try to find a way to desegregate the schools and other school boards wouldn't.

What was the motivating factor in Baltimore that appeared to be absent in other communities?

Mr. MITCHELL. I do not think there would be one single factor; there might be a series of factors.

What do you want your community to be? A community of tranquility and peace, or do you want a community of constant tension? I think a local school board might look at that.

I think a local school board might look at the matter of whether or not the housing pattern can be worked on so that you can achieve school desegregation without a great deal of difficulty. I think there are a number of variables that would enter into the picture.

Let me just say this: When the courts order something, inevitably there is some hostility. But I quite frankly would rather live with the hostility on a temporary basis for as long as we are moving toward the end objective of what America should be.

Many, many years ago, before most of the people in this room were born, the court ordered the University of Maryland to admit me. I must confess I was not received with open arms on the campus at College Park. I must confess that there were some idiots there who attempted to make life miserable for me. The hostility not only was on the campus but it was in the classroom.

A professor once referred to a "niggardly approach" and some oaf who didn't know what that word meant thought he was using a racial epithet. I can live with that as long as I know we are moving toward what is the ethos of this American society.

Mrs. SCHROEDER. I agree with you and I must say that my frustration has been—and I think we even see it happening in this House, in the Senate, in politics everywhere—that we will allow people to erode constitutional rights because of a fear of political retribution. Whether it is the local level, State level, or national level, that has become a real crisis, with the result that everything gets dumped on the courts. In so doing, we succeed only making the courts an object for everybody to attack. That is not really fair. In the separation of powers, we are giving them undue responsibility of enforcement of constitutional rights.

Mr. MITCHELL. Precisely.

Mrs. SCHROEDER. I think it is incumbent on everyone at all levels to make sure officials become more responsible and don't always take the politically easy route. That is the challenge I think America has in the 1980's.

Mr. MITCHELL. I certainly concur. I said those who use another approach are acting irresponsibly. I think those who use that other approach are really grave threats to our system of government. The more they persist along those lines, the more they unravel the very fabric of democracy. Not only do we bring about contempt for the courts, polarize people, keep people in a lesser status, they do all of those things that are inimical to the best interests of the American democracy, it seems to me.

Mrs. SCHROEDER. Thank you very much.

Mr. EDWARDS. The gentleman from Illinois, Mr. Washington.

Mr. WASHINGTON. Thank you, Mr. Chairman.

I also want to join the chairman, Mr. Mitchell, in commending you for excellent testimony, not just today but your testimony over your career, so to speak.

Representative Schroeder raises the question, why did Baltimore desegregate relatively peacefully, yet other locales are in chaos, turmoil? Wouldn't part of the answer be in the nature of the leadership that you find in the various subdivisions?

It is my impression, the impression of my people, that if the political leaders in many cases would lower their voices and have a more cooperative attitude toward resolving the problem, in many instances they would not get to the courts, and when they did get to the court—as a last resort—the final conclusion about busing would be more acceptable. But clearly, many political leaders in this country have simply used this as a method of whetting the appetites, rubbing raw the source of discontent, and making political capital out of it.

Would you respond to that?

Mr. MITCHELL. I certainly agree with what you have said, I agree with it entirely.

There are political opportunists who seize on this issue, not in an attempt to bring about a solution; rather, they do that in terms of their own political aggrandizement.

We had a situation in Boston in which you know one lady inflamed the busing issue in Boston. And every attempt that was made by the mayor and others to defuse the situation to try to make it work, that lady was out there polarizing people further.

That lady served with us briefly in the Congress. I think she has now faded into obscurity as far as I know. That is the price that most political opportunists pay for attempting to exploit an issue for their own selfish political interest.

Mr. **Washington**. Which raises the key question which you noted; that is, notwithstanding the constitutional basis for implementing school desegregation in this country, does this country have a commitment to the whole concept of desegregation? I do not know the answer.

There are constituent parts of the country, obviously, quite a few people, who seem to want to make capital out of certain conclusions—I do not know how arrived at—as to where the so-called black community stands relative to busing. I am not certain where they stand on the question of busing, but clearly they stand for desegregation, and clearly they stand for whatever tools are necessary to bring it about within reason. Whether or not this country has a commitment to desegregation or not, I do not know.

Mr. **Mitchell**. I must confess that during the past 4 or 5 years in this Congress, a great deal of my confidence about the commitment of the Nation has begun to wane. I just feel sick on occasions when I see this legislative body, a part of the highest legislative body in the world, take a racial issue, that is in quotes, and whip it day after day after day, putting asinine and stupid amendments on pieces of legislation, where they shouldn't be placed.

I must confess that for the immediate present my confidence in the Nation's commitment has waned. Over the long haul, however, I would like to believe, and I do believe, that the vast majority of Americans are going to be decent people. I would like to believe over the long haul they will see how they have been manipulated and used by political opportunists. So I think if we keep plugging away at this, over the long haul that commitment will be back in place.

Mr. **Washington**. I am inclined to want to agree with you, and if you continue to press forward certain theses as you did this morning, for example, that desegrated schools lead to or could lead to or has led to desegrated housing——

Mr. **Mitchell**. Sure.

Mr. **Washington** [continuing]. Which puts the quash on the so-called white flight concept; those kinds of responses to the so-called racist arguments are the kinds of responses with which I think we, if anything, can erode this antagonism toward desegregation. I am intrigued with that concept.

You directed us to several studies, did you not?

Mr. **Mitchell**. Yes. They are delineated in my testimony, which I hope is before you. We submitted it prior to the 48-hour deadline.

Of course, if you need further information, I would be delighted to supply it to you.

Mr. **Washington**. Thank you very much.

I yield whatever time I have.

Mr. **Edwards**. I just have one question, Mr. Mitchell.

Why do you think that here in the House the people who opposed a fair housing bill would also find themselves opposed to the desegregation of schools?

It seemed the best argument we had for a fair housing bill was that "OK, you don't like busing, but segregated schools are caused by segregated housing; how are you going to handle it?"

Why do you suppose we have this dilemma?

Mr. MITCHELL. I of course cannot get inside the minds and hearts of those people. But I would like to respectfully suggest that there are some persons who will oppose anything that suggests moving toward full equality in this nation. They will do so under many guises with many explanations, but it is not illogical for me to assume that the person who fights against school desegregation would also fight against any other form of affirmative action; also the fight against fair housing.

I am trying very carefully to skirt the word a, "racist core," but I have not skirted it, so it is out. I think despite all their pronouncements to the contrary, because of their background, their experience, a whole lot of things, they remain essentially persons who cannot accept the idea of full equality for blacks and Hispanics and others.

Mr. EDWARDS. Thank you.

Does the gentleman from Illinois, Mr. Hyde, desire time?

Mr. HYDE. Thank you.

I apologize for being late. I had another meeting at 10. I couldn't get out any sooner. But I have your statement, Mr. Mitchell, so I have not missed your words, although I missed your delivery, which I regret.

I note that you say:

> The members' efforts are intensified further by their attempts to utilize the discharge petition to deny adequate review by members of this House who are charged with such responsibility. I find such efforts irresponsible.

I have kind of a little different view, I think if it weren't for the discharge petition we wouldn't be holding these hearings, and that certainly legislation which has merit has been known to be bottled up in subcommittees. That is one of the powers of subcommittees and something that is jealously guarded, the power to hold things in subcommittee.

I could cite legislation of my own, which provides ground rules for a constitutional convention, that I filed for several years that never sees the light of day. But it takes a discharge petition to surface these things. You certainly are aware of that, are you not?

Mr. MITCHELL. I am well aware of the fact but I think the discharge petition short-circuits the legislative process of this House. Now I said it was irresponsible, and I insist that it is irresponsible. You take another position, that is your right.

Mr. HYDE. Well, thank you. It is my view that the discharge petition sometimes facilitates the exercise of the democratic process which, after all, is the right to vote. We have agreed and I think you have agreed that the right to vote is paramount, very important, more important really than anything because if you can't vote on something, you can't implement your views. Isn't that right?

Mr. MITCHELL. Of course that is right, but let me add very quickly, it may facilitate a process but if the intent of that process, if the ultimate objective is something inimical to the best interests of people, I do not find that very beneficial to use that process.

Mr. HYDE. Isn't the majority in our democratic pluralistic system supposed to decide that? Is it up to the subcommittee chairman or head of a caucus to determine that, or shouldn't a majority vote determine that subject to the Supreme Court's decision of whether or not what they have done is constitutional?

Mr. MITCHELL. Now you are getting into an issue which it seems to me you ought to be awfully aware of. Why do people sign discharge petitions?

Mr. HYDE. To get a hearing on important legislation.

Mr. MITCHELL. Not necessarily. Some do it out of cronyism with the other members, some do it out of a bargaining process; "I will sign this if you will agree to support this." It isn't a pure process.

Mr. HYDE. It is not always irresponsible, either. It may be the only way to get a hearing on an important piece of legislation.

Mr. MITCHELL. Well, on this one it is irresponsible.

Mr. HYDE. OK.

Would you say Senator Weicker's filibuster which prevented the Senate from dealing with a very important issue, from voting, if you will, on an important issue, was irresponsible?

Mr. MITCHELL. I certainly would not. I admire the man.

Mr. HYDE. Highly irresponsible.

Mr. MITCHELL. I think he is one of the few who will stand up for that which is right. You have to remember, Mr. Hyde, that there can be votes—for example, if you want to go back in history, I wonder how long it took people to determine whether or not we would have the 13th, 14th, and 15th amendments. There would be those who would filibuster against it. I think the desirability of those amendments is more important than a process that you just alluded to.

Mr. HYDE. Well, I just have a different view and I think we have laid it out.

My view is, let the people vote on something, don't use devices to stultify and to suffocate important public policy issues. And if it is breaking a filibuster so you can vote on an issue, if it is using a discharge petition to surface some important piece of legislation, that is more a fulfillment of the democratic process than trying to use parliamentary devices and the power that the subcommittee structure gives you to put things in a drawer and let them gather moss. But—you have a different view.

Mr. MITCHELL. Yes, I certainly do. Because I always look at what the objective of any piece of legislation is. Is it essentially good, bad, or is it evil or decent?

I would further submit to you and to the members of the subcommittee that when you have pieces of legislation which are clearly designed to thwart democracy, then we ought to fight them by any techniques possible.

Mr. HYDE. Sure. That is your judgment and other people may feel it is the very essence of democracy.

Let me ask you another question. I understand thoroughly the desire for integrated neighborhoods which our chairman encouraged in the Fair Housing Act and the desegregation of schools as a sort of cutting edge to desegregate society. That is a noble end but doesn't it run counter to the spirit of the Voting Rights Act, where it becomes illegal to desegregate, so to speak, because that dilutes minority voting strength?

I have difficulty in trying to maximize a racial group so it can vote with the notion that we should disperse everybody, which really dilutes that minority group's vote. If you could reconcile those two notions?

Mr. **Mitchell**. Yes, I think that is hogwash. There is no attempt made——

Mr. **Hyde**. Excuse me. What is hogwash?

Mr. **Mitchell**. The idea.

Mr. **Hyde**. What I have just said?

Mr. **Mitchell**. Yes.

Mr. **Hyde**. I think you are a rude person.

Mr. **Mitchell**. Well, be that——

Mr. **Hyde**. And I think most of what you say most of the time is hogwash.

Are we even now?

Mr. **Mitchell**. You can be even with yourself. Let me——

Mr. **Hyde**. I wouldn't want to be even with you. That would leave me too far behind.

Mr. **Mitchell**. I thank you for your gracious response.

Mr. **Hyde**. I thank you for your gracious characterization.

Mr. **Mitchell**. Let me just suggest to you that there is nothing in law that wants to disperse people. The law merely——

Mr. **Hyde**. Desegregation wants to disperse people.

Mr. **Mitchell**. Wait, wait, wait. No. The law merely says that the person has the right, that he shall not be denied. That is all.

Mr. **Hyde**. Thank you for your——

Mr. **Mitchell**. Thank you.

Mr. **Hyde** [continuing]. For your courtesy.

Mr. **Mitchell**. Thank you for your reciprocity and your courtesy.

Mr. **Hyde**. You bet.

Mr. **Edwards**. We welcome the gentleman from, California. Does the gentleman desire time?

Mr. **Lungren**. No.

Mr. **Edwards**. We have more witnesses. Unless somebody else desires to be heard, we thank you very much, Mr. Mitchell.

Mr. **Mitchell**. Thank you for the opportunity.

Mr. **Edwards**. We now welcome my colleague from the great State of California, Congresswoman Bobbi Fiedler. Ms. Fiedler has been much involved in this issue in Los Angeles and she brings to us her invaluable expertise as a former member of the board of education of Los Angeles.

We are pleased to welcome you here today, Ms. Fiedler. Without objection your statement will be made a part of the record and you may proceed.

Mr. **Washington**. Mr. Chairman, does the witness have a written statement?

TESTIMONY OF HON. BOBBI FIEDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. **Fiedler**. No, I do not have a written statement.

Mr. Chairman, members of the committee, might I first thank you for the opportunity to come before you and to testify based upon my personal experience on the issue of mandatory busing in Los Angeles.

I believe that nowhere in the country has the absurdity of mandatory busing been better exemplified than in the city of Los Angeles.

Going back to 1954, in the famous *Brown* v. *Board of Education,* where the effort was made by the court to order the elimination of the dual school systems that existed in the South, during a period of time between that decision which I personally believe was a just decision, the law became totally twisted.

And I believe that in Los Angeles, in the *Crawford* case, we have an example of how, historically, the law can change, from the effort on the part of the court to limit the dual school systems that existed in the South to an effort on the part of the courts to simply eliminate the segregation which does exist in many communities as a result of neighborhood housing patterns, but which was not affected by the decisions of the local school board.

In Los Angeles we have what is traditionally known as a racially neutral neighborhood school assignment policy. The efforts to try to desegregate Los Angeles started really about 18 years ago, when a court suit was filed by the ACLU and went through long years of litigation.

The court suit was not filed in the Federal court, it was filed in the State court of California. There was an assessment made initially by the plaintiffs; two suits were filed, but the one activated was one in the State court because it was believed at the time that it was filed initially, that in Los Angeles there had not been deliberate intentional segregation based upon race, and consequently efforts might be more fruitful in the State court.

They went through the State courts in 1976; in June of that year a decision was handed down which in essence said that segregation, regardless of its cause, whether mandated by a school board or whether it existed as a result of neighborhood housing patterns, had to be eliminated in the city of Los Angeles.

At that time the demographics were 60-percent minority, Los Angeles was an area which was changing very slowly from a majority Anglo to a majority minority, and 40-percent Anglo.

In the intervening time, since the debate on mandatory busing first began in Los Angeles, there has been massive flight from the school system. That flight was not just white flight, it was what I call middle-class flight. Those families who determined that they were economically in a position to withdraw their children from the public school system made the decision to do so because they felt that the mandatory order which ultimately was implemented was not consistent with the best interests of their children, and therefore they withdrew them on a wholesale basis. And today we find a school system, only several years after the implementation of mandatory desegregation, which is 77-percent minority and 23-percent Anglo.

Los Angeles is a unique school system in a lot of respects. We have one of the largest Korean populations outside of Korea, one of the largest Vietnamese populations outside of Vietnam, a very large Hispanic population. It has gone since the time of the first desegregation discussions in 1976 from 30 percent plus hispanic to now it is the majority in the Los Angeles school system.

In fact, in a recent order by Judge Lopez which stopped mandatory busing in Los Angeles, he ordered the school board to no longer refer to schools as racially isolated minority schools, and he also ordered the school system to no longer refer to those students who are not Anglo as a part of the minority because in fact they make up a majority of the school system.

So we have seen a massive change in a short period of time. There was an effort initially in 1978 to implement a plan which included 112,000 students from 165 schools. Unfortunately, between the time that the plan was developed and the time that the schools opened, we ended up with only 17,000 students actually riding the buses. That is how dramatic the change was.

In Los Angeles we had a school system which is 710 square miles, that is equivalent to the 11th largest State in the country. And when the busing program began, we were transporting children up to 3 hours a day, an hour and a half each way, and the average bus ride was an hour and 15 minutes long.

So you can see perhaps, unlike other communities where the bus transportation was for shorter distances such as occurred in Charlotte-Mecklenburg, that in Los Angeles the transportation and the length of time children spent on the buses was tremendous. Many children were getting on buses as early as 6, 6:15, 6:30 in the morning and not arriving home until 4:30 or 5 o'clock in the afternoon.

The resistance was very strong. The resistance was immediate, as soon as the desegregation discussions began. We found in Los Angeles that following the implementation of our mandatory desegregation program that we had more segregated students, 50,000 more segregated students than we had prior to the implementation. That is how dramatic the effect was in Los Angeles.

We faced many different kinds of programs there than exist in other parts of the country. We have a large Hispanic population; consequently, we have a large number of students who needed bilingual instruction. Well over 200,000 schoolchildren in the system today require it.

Unfortunately, because bilingual instruction is new and there has been some resistance, for some time we had not been able to put on staff to meet the needs of the children. So the limited number of bilingual instructors were dispersed throughout the school system away from the more densely populated areas of the city where there was a high need for language proficiency in English.

Unfortunately, we had to divide the teachers; consequently losing a good deal of the impact of the development of a newly emerging, and I might add to some degree successful, bilingual program.

The school district has spent to date well over a quarter of a billion dollars on the desegregation program. We made a major effort to try to implement voluntary programs. Even though there was a substantial amount of interest on the part of the community in these programs, the court continued to put lids on the level to which we could develop them.

For instance, we have a program which had nearly 20,000 students being transported in a voluntary program which was called "permits with transportation." We had suffered a major damage from the earthquake in 1971. Many of the older schools which needed to be reconstructed at that time closed out space to some of the students. They were given the opportunity to be moved into other parts of the city, primarily the San Fernando Valley, where there was an overabundance of space.

Many students took advantage of that program and were getting a very fine education and developing an interest. Because it was successful, we had constant requests to expand the program, but the courts put a lid of 20,000 students. Therefore, there began to develop waiting lists.

We found the same situation in the magnet schools. The board in fact was limited to the expansion of the voluntary programs by the court to a certain number and magnet schools which were developed and which had long waiting lists of both minority as well as Anglo students were unable to develop to their fullest at that period of time.

In the meantime the debate went on in court. The debate has continued to go on in court and other activity began to take place in the school system between 1976 and 1978.

Since California law was different than Federal law, we determined that in order to stop mandatory busing we needed to change California State law. So 3 years of effort went into altering the law to bring it into compliance with Federal law.

What we did essentially was pass through the State legislature a bill that required California law to come into compliance with Federal law; where mandatory busing would be required under Federal law, that too would be the law in the State of California; where it would not be required under Federal law we would not be required to implement it.

After 3 years, a good deal of effort—I might add I noted today with interest that one of the people who is going to testify before the committee is Mr. Orfield, who happened to be one of the individuals who was brought into the *Los Angeles* case, and it was as a result of some of his testimony and testimony of other experts during the development of the plan that there was some discussion of metropolitan busing.

After 2 years of people in the State legislature saying, "I really feel bad for the people of the city of Los Angeles, but it is not my problem," suddenly it became a problem of nearly half the State of California. So a majority of the legislators finally saw fit to bring an amendment out and it was ultimately passed by the people of the State by nearly 70 percent.

It was a result of that change of law that the Los Angeles school system went back to continuing court debate and was able to successfully end the mandatory busing program in just the last few months. Most of you may have read about the fact that it was ended.

They have now begun to develop and expand the programs that have been successful in Los Angeles in attracting students from diverse racial and ethnic groups. They are expanding the PWT voluntary busing program, which I described before, that is transporting students from primarily minority schools to majority schools. That program, in the last few years, began to attract some Anglo students to it whose families were willing to transport their children to the minority schools that they felt had excellent programs.

We, like other large urban school systems, have some very good schools that are a majority minority. We also have some that are not as effective in teaching the children of the school system. We also have begun to expand the voluntary program in the magnet schools which met with great success. They were academically enriched programs; there was a good deal of assistance in developing faculties with special expertise. Those programs are expanding at a very rapid rate.

I believe, as Representative Mitchell indicated, that that is one way which we can effect integration in our public school system without the disruption that mandatory busing has resulted in, in many school systems, certainly in the school system in, in Los Angeles.

There is also another very interesting and innovative program which is developed by the community, I might add, in an area called the Wilshire corridor. I think that program, which has not received much national publicity, is worthy of note. It takes into consideration the combination of an integrated community in an area that is changing, it was primarily initially a majority Anglo. It began to change, it became integrated, which is its current status, maintaining a fairly balanced racial and ethnic makeup.

The people of that area felt they wanted to stabilize their community. They came to the board and asked for our support, and they have implemented now a very interesting combination of magnet schools that go all the way from the elementary school to the senior high school, that permits people in each one of these, say—it is probably an 8- to 10-mile-square area—to participate in any one of the other schools that they may choose to that has a special program.

That, I think, is the kind of program that is a model which might be utilized in other parts of the country where school boards are interested in providing an integrated education, but where they do not want to get embroiled in a mandatory program as a means by which to achieve it.

In the short period of time we have here, it is difficult to cover an 18-year history. I am confident that in the near future we will see the stabilization of the school district in the city of Los Angeles. I think we will still see a certain amount of demographic change.

Los Angeles is affected by the country of Mexico and constant immigration coming in. We also are an area that tends to attract people from diverse racial and ethnic backgrounds. I think we will continue to be both integrated and yet tipping more towards a majority of what is classically considered a minority school system. But I think that with a continued commitment to the children of the school system, with the awareness on the part of the community as a whole that there is a need to equalize the resources for children across the system, that there is a need to concentrate our efforts on improving the quality of education for all of the children, regardless of their racial or ethnic background, and with a heightened consciousness on the part of the community of the city of Los Angeles that children in parts of this community had not received the kind of quality education that they would like to receive were they their children, that there will be a change of attitude that has occurred.

In that sense, I might add, I think mandatory busing and the discussion and the debate has been fruitful in that it has focused on the need to improve the quality of education in the school system. Los Angeles has a tremendous challenge ahead of it. It was a unique system, the largest system in the country that had been desegregated, the largest number of students, the largest amount of resources poured in and a good deal of disruption.

Nonetheless, I think at this point in time, since the mandatory program has ended, that there is a strong feeling of hope for the future.

I brought with me today just a couple of headline articles to show you that school systems can turn around. This is one from the San Fernando Valley. It says "End of Busing Turning Enrollment Tide Upward, Schools Report."

Another from the Los Angeles Times, "White Students Who Fled Busing Begin Returning to Schools."

I think when you begin with the demographics of a 77-percent minority school system, that the return of a substantial number of Anglo students is important to any effort for desegregation, whether it be majority or minority.

Los Angeles, being as large as it is, tended to discourage the flight outwards to other school systems. There was some outward flight but many families did choose to stay within the school system, physically, geographically, and many of those who determined they would attend private school, which are part of that large block of white students who did flee. now are in a position to return to that school system. In that I think that is favorable for everybody concerned.

Public support for public education has been strongly eroded through the last 5 or 6 years. A growing awareness of the status of quality public education has occurred. But I think we are on the right foot, that we are headed in the right direction.

I hope in the future the public schools not only in Los Angeles but across the Nation will begin to deliver the kind of quality of education that the children deserve, and we can move away from the debate and discussion on mandatory busing, desegregation techniques, and toward an effort to improve the quality of education. For ultimately it is my personal belief that integration will occur in society when we have economic equality and that cannot occur unless the children of this country receive the highest quality education so that they can compete with other children from other walks of life.

Mr. **Edwards**. Thank you.

Would you like those articles inserted in the record?

Ms. **Fiedler**. I think that would be fine.

Mr. **Edwards**. Without objection it is so ordered.

[The information follows:]

[From the Los Angeles Times, Sept. 13, 1981]

END OF BUSING TURNING ENROLLMENT TIDE UPWARD, SCHOOLS REPORT

(By Mark A. Stein)

No longer threatened with mandatory busing, a significant number of students are leaving private classrooms and home tutorial programs to return to public schools, according to early registration figures from elementary and junior high schools in the San Fernando Valley.

However, many school administrators said most Anglos still seem hesitant to return to their neighborhood public schools, perhaps because of the history of conflicting court rulings in the desegregation case that resulted in mandatory busing in the first place, as well as continuing uncertainty over it.

"Some old faces that have been away are coming back," said Andrew Anderson, principal of Nobel Junior High School in Northridge, aftere the first few days of pre-enrollment last week.

School will start Tuesday, with teachers returning Monday.

Three years of mandatory busing ended last year, following a state Court of Appeal ruling upholding Proposition 1, the anti-busing initiative. The state Supreme Court declined to hear an appeal of that ruling

Anderson said enrollment at his school, typical of those surveyed by The Times, fell to 1,600 students from 2,200 after the start of mandatory busing last year. Enrollment should climb back to about 1,800 this year, he said, with most of the gain coming at the expense of private schools.

"The people are coming back, bless their hearts," he said.

Similarly large gains of neighborhood children were reported at other larger schools. A district spokesman said his own survey of schools in the West San Fernando Valley showed that Hale Junior High in Woodland Hills expects 250 to 300 additional students, Lawrence Junior High in Chatsworth expects 175 and Parkman Junior High in Woodland Hills expects 150.

"We've been flooded here," said Ruben Holguin, principal of Portola Junior High in Tarzana. "The way things look, we'll be getting about 100 (new) students a day in the final days."

Holguin said enrollment at this school will leap from 986 last year to more than 1,500 this year. Half of that gain is in neighborhood children returning from private schools, he said, with the rest coming from inner-city schools through a voluntary Permits With Transportation busing program.

Frost Junior High in Granada Hills, which lost nearly half of its 1,380 students in the month after mandatory busing was announced last year, should be back to an enrollment of about 1,100 this year, according to Principal Gerald Horowitz.

Elementary schools also report seeing students return from private schools and tutorial programs, though the increases are less dramatic than those at the junior high schools.

"It's not a flood, but there are quite a few children who are returning," said Raye Curtis, principal of Fullbright Avenue Elementary School in Canoga Park. "My teachers are spotting quite a few children they had before. A flood? No. But a nice number."

Curtis said she expects about 300 to 325 students this year, compared to fewer than 290 last year.

Al Sirof, principal of both Anatola Avenue Elementary School in Van Nuys and Garden Grove Elementary School in Reseda, said the "slight increases" in enrollment at his schools are due "primarily to the lifting of mandatory busing," at least according to the parents he has spoken with.

"We haven't asked, but in many cases where students have reenrolled from private schools or home tutorials, parents said the end of busing was the reason," he said.

Other parents appear to be more cautious about rejoining the public schools, administrators said.

"I really think a lot of people are waiting to see what the judge's decision will be before they make a commitment for this fall," said Owen L. Knox, superintendent of Administrative Area 9, which includes schools in the middle of the Valley.

He made his comment before learning that Superior Court Judge Robert Lopez had let stand the voluntary desegregation plan drafted by the school district.

Even with the Lopez decision, apprehension still exists.

"Many parents, who are afraid the situation never will be straightened out (and fear) there will always be the threat of busing, have left their kids in private schools," said Arthur Arutian, principal of Limerick Avenue Elementary School in Canoga Park.

Arutian said he knew of only about 20 students so far who have returned to his school from private institutions. He expects a total enrollment of more than 950 this year, of which about 600 will be from the neighborhood and the rest bused in voluntarily.

Shel Ehrlich, public information officer for the Los Angeles Unified School District, said about 3,600 students, most of them from the San Fernando Valley, have signed up for a voluntary busing program that will continue to send them to schools to which they were mandatorily bused last year.

No racial breakdown of those students was available, Ehrlich said. However, The Times' pre-enrollment survey of Valley schools indicates that most of those students voluntarily bused are minorities.

The demise of mandatory busing has swollen the enrollments of schools with large minority populations, too—but not because students are flocking back from private schools, instead, it is simply because students bused out last year are staying at their neighborhood schools this year.

[From the Los Angeles Times]

WHITE STUDENTS WHO FLED BUSING BEGIN RETURNING TO CITY SCHOOLS

(By Kevin Roderick and Gerald Faris)

White students who left the Los Angeles city schools the last three years to escape mandatory busing began to return when the fall semester opened Tuesday, according to preliminary figures supplied by principals.

Anti-busing members of the Board of Education had predicted a heavy return of white students that would revive rapidly declining enrollments in suburban San Fernando schools. However, district officials refused to speculate on the extent of the return of whites until better enrollment figures are reported later this week.

GREATEST GAINS

At the same time, transportation snafus plagued magnet schools and other voluntary desegregation programs on the first day of classes.

Principals at many predominantly white schools reported an influx of students returning from private schools and the makeshift home tutorial programs that were started by anti-busing families in the San Fernando Valley suburbs.

Junior high schools, were much of the anti-busing fervor was focused, had the greatest enrollment gains Tuesday. Nobel and Frost junior highs in the valley enrolled at least 385 newly returning students, according to preliminary figures.

Portola Junior High in Tarzana, which contributed students to mandatory busing for the two years prior to last fall, added nearly 350 students from its neighborhood Tuesday, Principal Ruben Holguin said.

Board of Education member Roberta Weintraub greeted students at the school Tuesday morning and hailed their return as a significant gain for the school district. She said their presence will forestall pressure on the board to close San Fernando Valley schools with low enrollment to generate money for building new classrooms in overcrowded inner-city schools.

"The returning students will save these schools," Weintraub said.

Attendance will be reported to district offices later this week and final figures will be available in October. Enrollment last year was about 538,000.

Even the district's smallest school, Highlander Road Elementary in Canoga Park, gained some students Tuesday. But apparently not enough to meet a board committee's guideline that schools below 250 enrollment should be closed.

REACHES ONLY 103

Principal Doyle Parrish said enrollment Tuesday pushed to 103, including about 25 Ventura County students attending on a permit. But only about 60 to 65 students are from the Highlander Road neighborhood, and kindergarten enrollment from the neighborhood—the best indicator of future attendance—was only seven, he said.

Another 20 students are expected to arrive at Highlander Road today on a voluntary busing program from Shenandoah Elementary in the Pico-La Cienega area, Parrish said. But the bus scheduled to pick up students Tuesday morning was 50 minutes late and most of the youngsters gave up and went home, he said.

Hamlin Street Elementary in Canoga Park, another school considered too small last year, added about 50 neighborhood students and may have gained enough to nudge enrollment over 300 and avoid the threat of closure.

Parents continued to complain Tuesday that new bus routes assigned to students in magnet schools, the "permits with transportation" voluntary busing program and busing to relieve overcrowding, keep children on the road too long or leave them on busy streets or unsupervised school playgrounds.

Ellen Hoffman, interviewed on a Reseda street corner Tuesday morning while her son Garrett waited for a bus to the Center for Enriched Studies magnet school in Los Angeles,said the bus stop was two miles from home and used to be just around the corner.

"If they don't make some changes this week I will take him out," Hoffman said.

District officials have agreed to review the route assignments to correct obvious errors but they say the board has put a cap on the money available for bus transportation.

Two magnet schools with few applications—an agricultural center at Narbonne High and a marine science program at San Pedro High—have already been closed in an effort to save money.

"We may have to consider the consolidation of some (other) magnet schools to get . . . costs down," Weintraub said.

About 17 500 students were expected to enroll in 84 magnet schools, including 20 new high school magnets. About 20,000 students were expected in the "permits with transportation" program, 3,600 in a voluntary schools pairs and clusters, and about 5,500 in busing to relieve overcrowding.

Mr. KASTENMEIER. I have a question to clarify in my own mind the situation in Los Angeles Has the countywide court-ordered busing decree been vacated or modified?

Ms. FIEDLER. It has been modified very dramatically at this time. So that the mandatory component of the plan is not being implemented. The voluntary component is. The only area where there is any mandatory component at all at this point is in the area where there are overcrowded schools.

Again, Los Angeles is unique. We have some severe overcrowding primarily in the Hispanic area of the city, down adjacent to—kind of the East Los Angeles area. Many of the schools for years could not have additions built because one of the initial orders that was handed down said that to build a school in a segregated community was to continue the act of segregation. Therefore, even though those happened to be the communities where the population was expanding dramatically, no schools could be built.

Fortunately, the recent order that was vacated said we can now begin to build schools. That is something that needs to be done, particularly in the East Los Angeles area. The crowding is absolutely acute. You can't imagine how serious it is. The busing which is continuing is a form of busing which will continue only so long as the overcrowding continues.

Mr. KASTENMEIER. Your general presentation has not been a critical one, it has been more an analytical account of what happened. But was the original criticism that the court-ordered busing at the outset was too radical, produced too much change too quickly for the people to accommodate to?

Ms. FIEDLER. There were a couple of issues. One, there was never a finding of deliberate segregation in Los Angeles. There was no question that demographically there were schools that were a majority of one race or another, but the school sytem was a majority of one race or another. That had occurred over a period of time; it was not as a result of a decision by the school board.

That was one criticism, it was a requirement to be implemented, in spite of the fact there had been no illegal segregation in terms of the Federal constitutional standard in Los Angeles.

The other is the fact that I believe that mandatory desegregation does not work. I do not believe it achieves integrated schools in cities, certainly not a city like Los Angeles, because of the tremendous amount of flight from the public school system and a tremendous amount of resources have to be poured into it, and it is an area of 710 miles.

There are many other issues I could bring into it, the impact on the educational program. We unfortunately had to also undergo the desegregation of our faculties at the same time. Between the combination of student desegregation and faculty desegregation, we faced a tremendous amount of disruption and disability in the school system.

Mr. KASTENMEIER. But wouldn't you agree that where there is in fact de facto segregation, there must be ultimately some mandatory tool to deal with it?

Ms. FIEDLER. No; I do not.

I think if there is de facto segregation, it is the obligation of the school board to provide opportunities for integration within a voluntary framework, but not within a mandatory framework. And the comments I believe made by Congressman Mitchell before I supported wholeheartedly in that the magnet school programs, which have worked effectively in Baltimore as he indicated and in other areas, are very viable tools.

When you try to implement a mandatory busing program—and I will speak specifically to the city like Los Angeles—and you push out a large number of students, particularly a system which is changing demographically, you reduce the opportunity for either a desegregated education or an integrated education, because you lose students that you need to create any level of integration at all.

Mr. KASTENMEIER. But where a school district has in one sense or another not been forthcoming in terms of a plan, do not parents—should they not have access to the courts to compel it?

Ms. FIEDLER. Absolutely they should.

Mr. KASTENMEIER. You believe they should?

Ms. FIEDLER. They should have access to the courts definitely.

Mr. KASTENMEIER. And whatever the courts do is generally mandatory? That is to say, if the court orders something as a result of that, one way or another, that is presumably what you oppose?

Ms. FIEDLER. Yes; I do. But I do not believe that, because somebody goes to the courts, they necessarily receive a decision or push for a decision requiring mandatory busing. I think they definitely should have access to the courts, and I think that the courts should review the case. I think, however, it is the obligation of the courts to make decisions based upon facts put into the law and upon the fact of whether the implementation of one kind of a program or another will have a certain outcome.

In Los Angeles the outcome of the program which was required by the court to be implemented was more segregation, not less. Therefore, I think it is incumbent upon the courts to consider programs based upon what the final ultimate outcome is going to be in terms of their implementation rather than based upon theory.

Mr. **Kastenmeier**. Your quarrel then is with the nature of the court order rather than the fact that the court did order something?

Ms. **Fiedler**. Yes; it is.

I disagreed with California State law but I do not think, because I happen to personally disagree with it, that people should not have access to courts. I would never want to deny them that and I would never want to be denied that. If it weren't for my access to the courts and the access of those who feel differently about the issue, we would not have been successful in the city of Los Angeles in changing the existing order.

Mr. **Kastenmeier**. Thank you, Mr. Chairman.

Mr. **Edwards**. Mr. Hyde?

Mr. **Hyde**. I have no questions other than to thank the witness for a very important contribution and to request that she, at some point, please supply a written statement because it would be most useful to all of us to study it, to have something in front of us to underline and mark in the margins. Your testimony is important, but I really think you could make a great contribution to this important debate because you have been in the center of it and you have been an effective mover and shaker in this issue.

If you would provide us with your reasoned statement, I would like to not just have heard it once, I would like to read it and reread it.

Ms. **Fiedler**. Thank you very much.

Mr. **Hyde**. Thank you.

Mr. **Edwards**. Mrs. Schroeder?

Mrs. **Schroeder**. Yes. I also want to thank the gentlelady for her testimony.

What I think I hear you saying is that your basic dispute is not with the Constitution of the United States, but with the California law as it was being implemented.

Ms. **Fiedler**. Yes.

Mrs. **Schroeder**. You wouldn't tamper with the Federal Constitution?

Ms. **Fiedler**. Yes, I would.

Mrs. **Schroeder**. You don't like the Federal Constitution either?

Ms. **Fiedler**. I would—I definitely would support a change in the law as it is being interpreted. However, my debate in the city of Los Angeles, which is what I was dealing with here, was a debate centering around a change in the California constitution, which is what we happen to deal with there.

Mrs. **Schroeder**. But you would also advocate one in the Federal Constitution?

Ms. **Fiedler**. Yes.

Mrs. **Schroeder**. Then what I think I hear you saying is you would not deny people access to go to court on constitutional remedies?

Ms. **Fiedler**. Right.

Mrs. **Schroeder**. But you would limit the remedies the court could give out?

Ms. **Fiedler**. Yes.

Mrs. **Schroeder**. And you would not allow them to order mandatory busing?

Ms. **Fiedler**. I would, yes.

Mrs. **Schroeder**. What would you allow them to do?

Ms. **Fiedler**. I think that they could—it is my opinion that school districts should develop policy based on racially neutral assignment policies.

Mrs. **Schroeder**. What is that?

Ms. **Fiedler**. However, I also believe integrated educational opportunities should be offered to students, but I think that is up to the individual.

Mrs. **Schroeder**. But the court doesn't do that?

Ms. **Fiedler**. I am not certain that the court needs to do that. I think the court needs to protect the students under the equal protection clause of the 14th amendment to make certain they are not assigned based upon their race or ethnicity.

You were not here during the portion of the time that Nathan Glazer testified on Friday. If you review his testimony, you will get a fair representation of some of the positions I happen to hold.

I do not believe children should be assigned to schools on the basis of race. I did not think it was right when it was used as a means by which to assign students to dual school systems and I do not believe it is right to be used as a means by which to desegregate students.

Mrs. **Schroeder**. So you would allow the courts to go in to reassign students; you would allow them that remedy?

Ms. **Fiedler**. I think it is a responsibility of school districts to assign students. If there is a violation of the law, I think that has to be raised to the courts clearly.

Mrs. **Schroeder**. OK.

Ms. **Fiedler**. What you are talking about is a remedy.

Mrs. **Schroeder**. What is the remedy? I do not think the parents just want to be able to walk into court, tell the judge, and he wrings his hands and says "That is right, isn't that terrible? I can't do anything." I am trying to find out what would you allow him to do.

Ms. **Fiedler**. I indicated to you I believe the voluntary programs are the way in which to achieve integration and that those programs——

Mrs. **Schroeder**. But the court can't set those up.

Ms. **Fiedler**. May I continue?

And the way—a few of the voluntary programs are, as Congressman Mitchell indicated, magnet school programs; we called our program permit with transportation, open enrollment type programs.

Mrs. **Schroeder**. I agree totally.

Ms. **Fiedler**. A host of integration programs.

Mrs. **Schroeder**. But as the school board put those on, the court didn't?

Ms. **Fiedler**. Of course.

Mrs. **Schroeder**. OK. But assume the school board wouldn't do that, you have an obstinate school board that says "No, we are not going to have any of that social experimentation or tampering," or whatever rhetoric they want to use; they stand firm, get reelected, and a certain number of parents feel their constitutional rights are being violated; they go into court, which you would allow them to do.

What is the court's remedy?

Ms. **Fiedler**. I just indicated to you what I believe the remedy is.

Mrs. **Schroeder**. You are saying the remedy is voluntary?

Ms. **Fiedler**. That is correct.

Mrs. **Schroeder**. How does the court make——

Ms. **Fiedler**. Through the court's authority. That is exactly what we are living with right now in Los Angeles, we are living with a court that has made a decision to permit the school district to implement a voluntary program, and that is the authority of the court.

Mrs. **Schroeder**. But you were implementing that before, right?

Ms. **Fiedler**. Only a portion of it; we were not able to expand it, we were not able to build schools in communities, we were not able to use self-determination, so to speak.

Mrs. **Schroeder**. You were a willing school board?

Ms. **Fiedler**. Yes, but the court was not.

Mrs. **Schroeder**. That is what I am trying to say. What do you do when—turn it around—you say the board is not and the court is?

Ms. **Fiedler**. The court has the authority ultimately.

Mrs. **Schroeder**. To build schools?

Ms. **Fiedler**. No, to order the school board to take certain courses of action based upon the assessment of the court, and of course the school board, on the other hand, has the authority to go back to a higher court if necessary, if they disagree, or to go back and negotiate with the court.

Mrs. **Schroeder**. Well, I guess maybe it is a new kind of remedy, but if a court finds a will invalid, they are not allowed to sit down and write a new one; it is like that, if you see what I am saying.

We have always restricted the remedies basically that the courts have been allowed to do because we haven't wanted them—if they say "This contract is invalid," we don't want the judge to sit down, coming up with some new contract to bind the parties.

We are all concerned about children and bettering their education—I know you are, I know you have worked very hard in that area. My frustration is, what kind of remedies do we allow the court within that limited framework unless we pass a constitutional amendment to expand courts' remedies in that area?

Let me ask another question. You were saying there has been many students coming back into the Los Angeles school system, which I think is very positive. If we go to tuition tax credits, do you think that would stop it at all or do you think there is a commitment to continue to move in that direction?

Ms. **Fiedler**. I do not think tuition tax credit would substantially alter the direction of individual parents who decided they could afford a private school. I think that is a whole other subject. I believe that the reason that the parents are returning their children to the public school system is that they basically believe in the public schools, as I do, personally. And consequently, they believe that the resources are better in the public school system.

What they do not want is their children assigned to schools that they don't want them in. But as long as they are able to make their own decision regarding where they attend school, they prefer public schools, and during the entire debate on the subject, this is something that came through very loud and clear. Private schools have a place, parochial schools certainly have a place, but I think the overwhelming majority of people, certainly in my city, prefer to have their children in the public school system if they can do it with the caveat I mentioned.

It is going to be interesting to watch what happens in Los Angeles. We do not have a demographic study. We are merely looking at this point—because obviously school is just starting—but they are looking to see what is going to be the outcome of this year's return and the next year following that ought to show an even steeper incline in the number of students in it. I feel quite optimistic about that.

Mrs. **SCHROEDER**. I have more than used my time. Thank you, Mr. Chairman.

Mr. **EDWARDS**. Mr. Lungren?

Mr. **LUNGREN**. Thank you, Mr. Chairman.

As I understand your testimony, Ms. Fiedler, what you are basically saying is that people should have a right to access to the courts to undo what they perceive to be an inequality in educational opportunities for their children, but you would eliminate one remedy which you believe to have been a failure, that is mandatory busing?

Ms. **FIEDLER**. Yes.

If I might just add to it, I would put more emphasis on education and less on transportation. I think when you divert large sums of money into a transportation program without the benefit of focusing in on the outcome educationally for the children and what the trade-off is, because there is a trade-off—there are only so many dollars that can go around. I think that has been very unfortunate, because I think over the last 15 years, had there been more concentration directly on the outcome educationally for children, that integration within our society would have been benefited because I think we would have achieved higher levels, or children would have achieved higher levels academically, and therefore more integration could take place from an economic standpoint as well.

Mr. **LUNGREN**. I just wanted to clear up some of the semantics I think we were getting into a few moments ago.

You are suggesting some courts can require in essence, a mandatory requirement that they do something to affirmatively cause equal educational opportunities for people of all races, but can allow them to do that in a voluntary framework, voluntary meaning that there is a voluntary participation?

Ms. **FIEDLER**. Yes.

Mr. **LUNGREN**. That is provided, or opportunity for participation that is provided for all parents and children, whether minority or majority?

Ms. **FIEDLER**. Yes, as long as, I might add, there has been no deliberate intentional segregation. I think that is a whole separate issue.

Mr. LUNGREN. In drawing up the voluntary program, you are talking about magnet schools; the simple concept is a school to which you would give additional resources perhaps to make it; if you have a small school district, a major or the major academic high school in the unit, would be located in a neighborhood which is predominantly minority?

Ms. FIEDLER. Yes. I think a good example of that is the Bronx High School of Science in New York. Children compete from all over the city to attend that school because they believe it has an excellent academic background New York happened to be one of the school systems that has been doing that for years and years, not for integration but nevertheless the concept has achieved integration as part of the concept.

Mr. LUNGREN. So the target or magnet for drawing Anglo or majority students would be the quality of the education in a specific field?

Ms. FIEDLER. Yes.

Mr. LUNGREN. In a particular location that was surrounded by a minority neighborhood, correct?

Ms. FIEDLER. It might be that or it might be in a predominantly Anglo community. It should be located in such a way that students from all walks of life can attend.

Mr. LUNGREN. So if a child wanted to go there from another area, the transportation would be involved as a result of a voluntary decision made by that child and the parents?

Ms. FIEDLER. Yes.

Mr. LUNGREN. Rather than a mandatory requirement imposed by a court order saying that you must be bused from your neighborhood to another school, not for the purpose of some educational achievement but because you happen to be of one race or one color?

Ms. FIEDLER. That is correct.

Mr. LUNGREN. That is the essential difference that you are trying to articulate here?

Ms. FIEDLER. Yes.

Mr. LUNGREN. Some have said that magnet school systems in and of themselves are elitist and go against the idea of an integrated school district. What do you say?

Ms. FIEDLER. I think that is really preposterous. Any school system that can help to improve the quality of achievement on the part of a student should be offered to students. It is unfortunate that people believe because students come from one racial or ethnic background that they should not or could not achieve. It surely moves into the same kind of attitude that created the original intentionally segregated schools to start with.

Mr. LUNGREN. Before, instead of saying white flight, you referred to it as middle-class flight in the Los Angeles school district. You mean by that that included middle-class minority citizens fleeing from the school district?

Ms. FIEDLER. Yes.

Mr. LUNGREN. Obviously not as a total percentage of the resulting student body, but you are talking about in terms of absolute numbers.

Ms. FIEDLER. Yes. We lost about 13,000 black students the first year. It was more difficult to determine the number of Hispanic students that we lost, although I happen to know that we did because I was often brought into the Hispanic communities to talk with groups of parents who were very concerned about the problems that they were having and there was a substantial amount of flight. It is difficult to document because, as one group would leave, we were getting so many new ones. We got typically 10,000 to 13,000 new Hispanic students each year. It would be difficult to determine how many left and how many came in.

Mr. LUNGREN. Just on a point——

Ms. FIEDLER. If I might add, there were many areas where the families of minority students were economically in a position to be able to move. We have a very diverse community ethnically and economically in the school system. There were many choices that were open to those with higher levels of income in Los Angeles. It may have been true in other areas where they tended to be more congregated in more poor communities.

Mr. LUNGREN. Just one last point. I want to make sure your position is clear.

In California, because the California Supreme Court interpreted our California constitution to require courts to impose mandatory programs where there was de facto as well as de jure segregation, we, in order to overcome that in the democratic process, passed an amendment to our State constitution which now requires that State courts can demand no higher standard of school districts in the State of California than the Federal courts have demanded; is that correct?

Ms. FIEDLER. That is correct.

Mr. LUNGREN. But in terms of the question as to whether we ought to amend the U.S. Constitution to deny courts the remedy, a single remedy of mandatory busing in cases, even where there was de facto or de jure segregation, you would support that effort?

Ms. FIEDLER. Yes.

Mr. EDWARDS. Mr. Washington?

Mr. WASHINGTON. Thank you, Mr. Chairman.

Thank you, Ms. Fiedler, for very excellent testimony. I agree with at least part of it, the last part, in which you agree with Mr. Mitchell that certainly the stress should be upon quality education.

Are you familiar with Mr. Orfield's testimony?

Ms. FIEDLER. I have it, but I haven't had time to read it.

Mr. WASHINGTON. I would like to have you respond to a statement he makes on page 16 of his submission. He says:

> In most cases, after desegregation becomes inevitable, school officials try to make the best of it and to preserve public support for public education. The better boards and administrators decide that if the change is to come they should design it and use the opportunity to start some new educational programs. Los Angeles school officials have been peculiarly eager to create the maximum possible chaos and confusion and to issue dramatic statements that could only undermine public confidence in public schools and encourage white parents to withdraw their children.
>
> Worse yet, the school board president used the first day of school to issue a vulgar attack on the board's only black member, an act that could only further inflame race relations in a period of extraordinary sensitivity. I cannot recall a similar action in any school district in any part of the country. Those of us who work on race relations know the great importance of symbolic actions on sensitive racial issues. The symbols chosen by the Los Angeles school officials have encouraged and

supported resistance to desegregation, whatever the cost to the schools and the school district.

Would you respond to Mr. Orfield?

Ms. **Fiedler**. I would be delighted to.

If Mr. Orfield's statement was a statement of an objective observer, I would feel differently about it. However, his is a statement of an individual who has been a part of the plaintiff's case against Los Angeles and in behalf of the ACLU and NAACP for years. So it is simply the statement of somebody who supports mandatory busing, who saw a school system go through the disruption as a result of the push for mandatory busing, who saw the reaction of individuals within the community and who disagreed with them.

I respect his right to disagree with the course of action I took personally, as I respect his right to pursue his personal point of view and play it off against the public as that of an objective observer. But that is not the fact.

Mr. **Washington**. You were a member of the school board?

Ms. **Fiedler**. Yes, I was a member of the school board.

Mr. **Washington**. You were a party in interest also?

Ms. **Fiedler**. Yes, I was a party in interest.

Mr. **Washington**. You were ostracizing him?

Ms. **Fiedler**. That is correct. I wanted to make it clear that this is not a party in interest without a position; it was not an objective party of interest. It is a party in interest who is a part of the case in opposition to the school board.

As far as I am concerned, the Los Angeles School Board, while obviously individual members had a right to their point of view and to their courses of action, responded to the interests of the people of the city of Los Angeles in the fact that there was a great effort to see that, in spite of the fact that a plan was implemented, that was done so in a peaceful and calm environment; that in spite of the strong opposition, we continued to pursue a course of action through the legislative, elective, and the judicial process, which is of course appropriate.

I indicated before that I would support the rights of people who disagree with me to use that means. We used it, we used it effectively, I am glad to say. I think the outcome will be positive for the children in the city of Los Angeles. I hold no rancor to those who disagree with me, and I hold no guilt because I acted in a way that I felt was in the interest of the people who elected me to serve.

One other point if I may, the city of Los Angeles, prior to the current board there was another board, it was one that supported mandatory busing. Not only did it have its school board president recalled, but it was rejected almost to a person, wholesale basis, at the polls.

Therefore, I think that the issue and the position of the public in the city of Los Angeles was made very clear. We were not elected by district. We were elected at large. I was elected from the entire city of Los Angeles and five cities outside of it, as were the majority of the existing members today.

Mr. **Washington**. Were all members elected at large?

Ms. **Fiedler**. All of them were elected when I was elected. They are now going through a transition of change where the school board members are being elected by district.

Mr. **Washington**. At that time they were all elected at large?

Ms **Fiedler**. All of them were elected when I was elected. They are now going through a transition of change where the school board members are being elected by district.

Mr. **Washington**. How many members are there?

Ms. **Fiedler**. There are seven.

Mr. **Washington**. What is the black population?

Ms. **Fiedler**. Currently the student population, which I can give you, is about 23 percent; it is about the same as the Anglo population——

Mr. **Washington**. I was talking about the other population.

Ms. **Fiedler**. Residential? I cannot give you that figure.

Mr. **Washington**. What is the Hispanic population?

Ms. **Fiedler**. The Hispanic population in the school system is 54 percent.

Mr. **Washington**. What is the residential population of Hispanics, how many Hispanics are there in the city of Los Angeles?

Ms. **Fiedler**. I do not know, I cannot answer that question. I know the demographics for the school system, not for the city at large.

Mr. **Washington**. How large was the school board?

Ms. **Fiedler**. The school board had seven members.

Mr. **Washington**. How many were black?

Ms. **Fiedler**. One member was black and one Hispanic elected at large at that time.

Mr. **Washington**. What is the Anglo population of the city of Los Angeles?

Ms. **Fiedler**. The Anglo population of the school system is 23 percent.

Mr. **Washington**. What is the residential population?

Ms. **Fiedler**. I cannot give you that figure.

Mr. **Washington**. Do you support H.J. Res. 56, Mr. Mottl's proposal?

Ms. **Fiedler**. Yes, I do.

Mr. **Washington**. I yield the balance of my time.

Ms. **Fiedler**. Thank you.

Mr. **Edwards**. Ms. Fiedler, let's assume that there is a small city with a relatively small school district of just a few thousand students, in the Deep South, for example, where the housing is integrated, and the school board has made up its mind that it is going to have segregated schools. This was a classic pattern of the old South.

Ms. **Fiedler**. May I ask one clarifying point?

Mr. **Edwards**. Yes.

Ms. **Fiedler**. Are you talking about a dual school system?

Mr. **Edwards**. I am talking about a school board that says that black students should go to one series of schools and white students to the other.

Ms. **Fiedler**. Fine. Thank you.

Mr. **Edwards**. So the Federal court comes along and says that is illegal. What could the Federal court in this instance do about it?

Ms. **Fiedler**. Require the school system to develop a racially neutral assignment policy.

Mr. **Edwards**. Suppose that does not work without busing?

Ms. **Fiedler**. I do not personally believe that a racially neutral assignment policy would require mandatory busing, generally, at the elementary level. Often a mixed racial assignment policy at junior high or senior high does require some level of busing in order to get students to school, for the purpose of transporting from their residence to school.

I would support that effort, as long as the students were not assigned based on race and as long as it was within their neighborhood assignment patterns.

Mr. **Edwards**. As long as the assignment was not based on race?

Ms. **Fiedler**. And as long as it was within their assignment pattern, or as long as the school board offered them an opportunity to transfer to schools outside of their neighborhood based upon their individual choice.

Mr. **Edwards**. As you note, at least one of the witnesses last week said that without the more drastic power of the court, the conservative methods such as magnetic schools just do not work.

Ms. **Fiedler**. I cannot speak to the type of Southern school system that you are describing, because I do not believe magnet schools can eliminate that kind of segregation. But I do believe that they can help to attract students where there is an interest in participation. I do not think it will deal with the dual system. It is an option for desegregation after the dual school system itself is eliminated, as a concept.

Mr. **Edwards**. Thank you.

Are there further questions?

Mr. **Hyde**. If I might, Mr. Chairman.

Congresswoman Fiedler, you have been in the busing controversy for how many years?

Ms. **Fiedler**. Six years.

Mr. **Hyde**. You have been involved in an awful lot of arguments and debates and verbal controversies about this issue over those 6 years, have you not?

Ms. **Fiedler**. Yes, I have, more than my fair share.

Mr. **Hyde**. Is it your experience that there are people of good will and sincerity on both sides of this question?

Ms. **Fiedler**. Absolutely.

Mr. **Hyde**. Do you find that the use of epithets such as irresponsible or racist advances the resolution of these very difficult problems?

Ms. **Fiedler**. Not at all. And unfortunately, there are extremists on both sides of the issue.

The vast majority of people I believe hold their positions from a position of good will and different perspectives. However, when one runs out of arguments, the name-calling usually follows, and I have been the subject of that kind of thing for a long period of time, and choose to believe it reveals a weakness in the argument rather than the substance of the argument.

Mr. **Hyde**. As have we all.

Thank you.

Mr. **Edwards**. Mr. Lungren?

Mr. **Lungren**. Just one question.

If we would adopt Mr. Mottl's amendment or an amendment similar to it and thereby say that the Federal courts could not apply a remedy of busing, a remedy in the situation suggested by the chairman would be a requirement that the school board even go to the extent of building a new school to make sure that integration occurs; is that not correct?

Ms. **Fiedler**. Perhaps.

Mr. **Lungren**. You would not foreclose that if that were the only alternative to a recalcitrant school district, would you?

Ms. **Fiedler**. No.

Mr. **Lungren**. Thank you.

Mr. **Edwards**. I think Ms. Fiedler said that the court should not have the power to order the school district to assign students on account of race.

Ms. **Fiedler**. That is correct.

Mr. **Lungren**. But a remedy that would still be available would be a requirement that a new school be built so that the already existing housing patterns would result in an integrated setting if in fact there has been de jure segregation in the past.

Mr. **Edwards**. I understand that. Just 1 more minute.

Suppose the school board again said this new school we want only black kids to go to it?

Ms. **Fiedler**. I do not think students ought to be assigned on the basis of their race, nor that assignment policies be racial in character; I think they are wrong.

Mr. **Edwards**. At this time, I would like to point out that we have on the schedule the very distinguished Chairman of the U.S. Civil Rights Commission, but he has kindly consented, because of the problems of time this morning, to appear at out next scheduled hearing. We are looking forward to hearing from our good friend Dr. Flemming and his staff soon.

Mr. **Edwards**. Our last witness this morning is Prof. Gary Orfield. Professor Orfield is a political scientist at the University of Illinois, and currently associated with the Brookings Institution here in Washington. He is the author of several highly respected publications on this subject and has participated actively in the process of school desegregation as a court-appointed adviser, expert witness, and parent.

Dr. Orfield, we are delighted to have you here. We have two members of the committee from Illinois. I am sure they welcome you also.

Mr. **Washington**. More than happy to welcome Dr. Orfield.

Mr. **Orfield**. Thank you very much.

Mr. **Edwards**. Without objection your entire statement will be made part of the record and you may proceed on your own time.

TESTIMONY OF GARY ORFIELD, PROFESSOR, UNIVERSITY OF ILLINOIS AND BROOKINGS INSTITUTE

Mr. **Orfield**. Thank you. It is a pleasure to be here today with this committee.

THE IMPORTANCE OF THESE HEARINGS

I think this is, as the chairman indicated, the first serious in-depth inquiry into the success and difficulties of school desegregation. The initial urban desegregation orders were handed down by the Supreme Court in 1971. We have had many proposed congressional amendments during that period but very little indepth investigation and thoughtful examination of these issues.

I believe that Congress has an extraordinarily important role to play in looking at what has actually happened around the country and what research desegregation shows. This work of examination and investigation can make a major contribution to the country. I believe that all these issues should be ventilated. There is a great deal more information and understanding of the process of school desegregation than has been evident in most of the congressional debates on this issue.

We have now had 15 years of high voltage political fights in the House and in the Senate on antibusing and antidesegregation amendments. My first occasion to witness one was in 1966 when Judge Smith and the Southern Caucus attempted to stop the Johnson administration from desegregating the South, and it failed. The South was desegregated, it is an accomplished fact, almost no one objects to it any more. School integration worked there and, as I will testify, it works in many parts of the country.

Now we find most of the antidesegregation amendments coming from Northern cities that are before the courts and pressed by advocates from those cities. There have been consistent themes, if you read through the 15 years of debate. Throughout this discussion in the Congress since 1966 there has been very little effort to understand what are the real problems that black and Hispanic parents are reacting to: Why are they going to court, why the local school boards refuse to act, why the judges are forced to act, why the administrative agencies of the executive branch have been forbidden to act by congressional mandate, and why we have wave after wave of political leaders from one district after another coming in to Congress and advocating measures that would restrain and restrict the actions of the Federal courts which are left as the only real agency to which minority families can turn to try to save their children's education.

OPPOSITION TO AID FOR MINORITY SCHOOLS

The change that we have seen since the sixties and seventies in this debate is perhaps one of the most disturbing elements. In the sixties and seventies, almost everybody who came in here with antibusing amendments also said, we ought to put a lot of resources into those minority schools in the central cities, we ought to boost title I, bilingual education, we ought to do something to help get jobs in those central cities.

Now they come in with a policy and a program of unabashed cynicism. At the same time that we are attacking and attempting to restrict the Federal courts in offering desegregation remedies, Congress has also already slashed title I, bilingual education, CETA jobs, it slashed school lunches, almost all the programs that affect minority children and their families, said "We will not have desegregation" and in many of its amendments also said "We will not have any semblance of equality for the minority families and their children."

So the gossamer of the earlier efforts and the earlier attacks on the courts is gone. It is in the major central cities where most of the segregation in the country that is remaining exists today. Almost half of the black children and 60 percent of the Hispanic children go to school in 50 large school districts. A number of these major cities are at or close to bankruptcy in their educational systems.

Chicago, as Congressman Washington well knows, has had devastating cutbacks. It barely was able to open school this fall. Nobody knows how it will open next fall. It hasn't got an extra dime from the State government. The money from the State government is far less each year than it was the year before in terms of real dollars. It is now going to experience a very sharp cutback in Federal aid funds as well.

What are those people to do? What is to happen to those children?

My argument would be that at this stage in our political history nobody particularly cares. They wish those children would become invisible again. They wish to restrict them from the right to open the door to the courts and, at the same time, they wish to restrict the efforts to make the separate schools more equal.

We find in cities like Los Angeles, for example, the incredible situation of 200 schools on year-round operation or double shifts serving Hispanic children and schools and in the other part of the city are one-half or three-fourth empty, and the school board refusing to close those expensive schools and refusing to transport a substantial number of children to the empty seats that exist in those schools.

This is the kind of mood that exists in the country today. It is a dangerous mood.

I would like to say that my prepared statement goes into the research at length, but as I was thinking about it last night I was thinking, you know we really need to have some broad perspective on what we are up against in the desegregation area.

We have a multiracial society that is becoming much more multiracial. As you know, southern California will be the first major part of our country where the English-speaking whites are the minority over a whole large region of the country. In many of our metropolitan areas now a third or more of the children that are being born are black and Hispanic. These children are going into society where segregation and inequality are pervasive. I think it doesn't take any great imagination to know that cannot be a very stable society if those children are effectively cut off from hope of access to the opportunities available to other people in the society.

School integration is no panacea, it doesn't solve all these problems. It is the one central symbolic gesture of our judicial system and of the civil rights movement in the last generation that tries to keep some avenue of access to nonsegregated experience open in the development of chldren's lives and the development of their careers and hopes and ideas about our society.

This is one of the only areas of civil rights that is going forward at all today. We find in the courts relatively little progress on job discrimination. We find in the Congress blockage of fair housing legislation. We find dissolution of a whole number of programs targeted on minority children and families in segregated sites. School integration is a very central and sensitive issue. It would be, in a sense the last insult to minority children after everything else that has happened in the recent political history to try to seize this right and deny any realistic remedy.

I would like to say a few things about Los Angeles since we have just heard a lengthy discussion about it, before I go into analysis of the research literature.

I was involved in the Los Angeles case. I did consult with the civil rights plaintiffs early in the case. I did not appear as a witness for them in the case. I was appointed by the judge, Judge Egly, presiding over that case; served as one of his experts, filed a report with the court, and was cross-examined on it.

I have had occasion just in August to file another statement with the Superior Court of California, with regard to the Los Angeles case. I would like to ask that that be made part of the record at this point if possible.

Mr. **Edwards**. Without objection it is so ordered.

[The information follows:]

AFFADAVIT OF GARY ORFIELD

STATE OF NEW YORK)
) ss
COUNTY OF DUTCHESS)

GARY ORFIELD, being first duly sworn deposes and says that he prepared the attached report, labeled as "Declaration of Gary Orfield," that the report is a true and correct statement of his views, and that the report represents the substance of his testimony on the issues treated were he allowed to testify in the cause before the Superior Court of the State of California for the County of Los Angeles: Crawford et al. v. Board of Education of the City of Los Angeles, No. C822854.

Gary Orfield
Gary Orfield

Subscribed and sworn to before
me, a Notary Public, this 11th
day of August 1981.

Greta [illegible] Buck

My Commission Expires 3/30/82

DECLARATION OF
Gary Orfield

August 8, 1981

Background. My name is Gary Orfield and my address is 20 Fifth St., N.E., Washington, D.C. 20002. I am presently on leave from my position as Professor of Political Science at the University of Illinois, spending a year as Guest Scholar at Brookings Institution to complete a book on federal housing policy and metropolitan segregation under a grant from the Twentieth Century Fund. My current work deals with the racial impacts of housing and urban development policies and the relationship between housing and school segregation. The work will examine these issues in a number of the nation's largest metropolitan areas, including Los Angeles. I am currently serving as chairman of the National Institute of Education's study group on desegregation research.

My teaching experience covers a range of courses in areas including civil rights enforcement, legislative process, housing and urban policy, public administration, inter-governmental relations, manpower policy, law and society, and other fields. I frequently review articles and book manuscripts for professional journals and academic and commercial publishers, particularly in the area of school desegregation.

I received my B.A. from the University of Minnesota and my M.A. and Ph.D. from the University of Chicago. My major field at all levels was political science. My Ph.D. examination fields included recent American history (including urban history and black history courses) and public law. I have been a member of the faculty at the University of Virginia and Princeton Univ., Scholar-in-Residence at the U.S. Commission on Civil Rights, and a research associate at Brookings Institution before joining the University of Illinois faculty.

My interest in school desegregation research has been long-standing and, in recent years, I have become actively involved in school desegregation planning or litigation in a number of cities. My first book, The Reconstruction of Southern Education: The Schools and the 1964 Civil Rights Act, was a study of the desegregation of the school districts of the South during the Johnson Administration. Many of my articles deal with school desegregation issues ranging from internal changes within schools after desegregation to the impact of demographic changes on the feasibility of central city desegregation and the problems faced by courts and policy makers in interpreting data and testimony on the impact of desegregation. My 1978 book, Must We Bus? Segregated Schools and National Policy, draws on research from many disciplines to analyze urban desegregation policy

During the past four years I have been an expert witness in school desegregation litigation in Seattle, Omaha, Los Angeles, Houston, and St. Louis and in the pupil competency case in Florida and have participated in conferences or training programs on these issues in many major cities. I served as a consultant to the Illinois State Board of Education on Chicago desegregation planning in 1978 and prepared a report on the Chicago voluntary plan for the State Superintendent in 1979. I was one of the experts appointed by Judge Egly in 1978 and I submitted a report on the remedy issues in Los Angeles in November 1978. From March 1980 until last month I served as the expert for the Federal District Court in St. Louis on the implementation of school and housing desegregation orders in the city and its suburbs.

This report is submitted at the requestion of plaintiffs in the *Crawford* litigation who asked me to prepare an analysis of the desegregation plan of the Los Angeles Unified School District. I am not employed by plaintiffs and this report reflects my personal judgment on certain key issues before the court. The issues are, of course, complex and controversial. In my experience I find that most policy makers, including judges, share certain widespread myths about the desegregation process and that careful and extensive examination of the evidence is essential for accurate determination of the facts. I consider it extremely unlikely that the court can obtain the data essential for well-grounded conclusions without allowing extensive discovery, hearings with cross-examination and/or appointment of experts to gather information on questions posed by the court. I am convinced that the district's plan rests on a number of assumptions which are incorrect. I believe that a careful examination of the next fall's enrollment statistics will show that they were incorrect. Since it is now too late to reinstate the desegregation plan without exposing the children and teachers of the district to another of the chaotic Septembers which have so damaged the desegregation process in Los Angeles I would recommend that the court permit more time for these proceedings and fully examine the data which should prove or disprove many of the school board's assumptions and claims about the values of voluntary desegregation.

Subject of This Report and Basis for Conclusions

This statement will deal with three major questions:

1) Is a voluntary approach to desegregation, such as that set forth in the district's June 1981 plan, workable and effective in reducing segregation? What is the existing evidence from Los Angeles and other large cities?

2) What other major desegregation techniques are available and how do they work in big cities? Does the use of such mandatory techniques render voluntary components of plans more or less effective?

3) To what extent have the problems attributed by the Board of Education to mandatory desegregation actually been caused by actions taken by the board itself and by individual members and administrators? Should the Board be rewarded for actions that have rendered desegregation less successful by being excused from obligations accepted with far better grace and far less uproar in other cities?

My analysis is based on a variety of sources. During my earlier work with the Superior Court I became familiar with with the district, interviewed many staff members, visited schools and met with parents and teachers in many parts of the city, and collected a great deal of data about the city and the metropolitan region. Before my testimony in 1980 I reviewed a great many documents and reports from the school district and from the court's monitoring office as well as the evidence and testimony presented to the court by the school district. In preparing this statement I have studied the district's proposed plan, the enrollment statistics for last year, enrollment data for next fall's magnet programs, and newspaper coverage of the actions of the board, including many articles and editorials from the _Times_, the _Herald-Examiner_, and the _Valley News_. My earlier experience in the city has given me a high regard for the accuracy of the papers, particularly the _Times_, in covering this story.

My general conclusions on such issues as magnet schools rely not only on information from Los Angeles but also on the best data from other cities that I have encountered. This includes data from official reports, from published scholarly research, from unpublished reports by academics and school research offices, and from evidence presented in other school desegregation cases.

Will a Voluntary Plan Work in Los Angeles? The Los Angeles Unified School District has made a strong argument in favor of voluntary approaches to desegregation throughout the _Crawford_ case. Because of this strong commitment there has been a major effort to achieve voluntary desegregation and the Board proposes to expand the effort next fall. Because of its commitment, the district has made a very serious effort for voluntary programs. I think that the experience in the district, the preliminary figures for next year, and the experience in other large districts all indicate that voluntary plan components are useful but have very small impacts on the overall pattern of segregation. They may produce transfers of minority students to desegregate a few white schools but rarely see any significant number of white students transfer to schools in minority communities no matter how unusual the educational opportunities may be. In Anglo communities there is clearly a very powerful negative stereotype about minority neighborhoods and schools, so powerful that many white parents will keep their children in the local white school even if it were inferior to a school where their children could transfer. A poll in San Diego, in fact, showed that a substantial majority of Anglos would not allow their child to transfer to a superior school in another part of town. In my work for the court in Los Angeles I repeatedly spoke with white parent leaders in schools in Anglo areas who expressed extreme stereotypes about minority schools. It is this pervasive white attitude that is at the root of many of the problems that make desegregation necessary for equal opportunity and it is this attitude that usually makes substantial voluntary desegregation virtually impossible in minority schools in big cities.

The two principal voluntary techniques in Los Angeles are permissive transfers of individual students (PWT) and magnet schools. Each of these techniques have been frequently employed in many other cities, sometimes in the context of a purely voluntary plan and sometimes as components offering voluntary choices within a mandatory order. In a number of cities where purely voluntary approaches failed and then a mandatory plan, with voluntary options, was imposed it is possible to observe the impact on the programs of a change from pure volunteerism to a mandatory framework.

The experience in Los Angeles and elsewhere shows that there are some minority students and families so eager for better and integrated education that they will accept almost any level of inconvenience and travel time but that the number of transfers very seldom reaches beyond a few percent of the total minority enrollment. Very few whites ever use permissive transfers to attend predominantly minority schools. Much the same pattern occurs in magnet schools, although their drawing power depends more on the nature of their curriculum and their location.

The experience in Los Angeles, as analyzed by the court's monitoring committee and as reported in the LAUSD statistics, conforms to these general patterns. The permissive transfer program has drawn a significant number, but a small percentage of the minority students, but very few Anglo students. It has produced significant integration in some Anglo schools but has had no impact on segregated black and Hispanic schools. It has required very expensive one-way long distance transportation of minority children who wished to obtain an integrated education. The general impact of the magnet school program has been similar. Both have involved much higher costs per student than mandatory programs and have placed virtually all of the burden of achieving desegregation on those who were the victims of segregation--Hispanic and black students and families. In the case of the magnet schools a number of expensive new educational programs justified by and financed through the desegregation plan have been highly segregated from their inception.

The LAUSD's June 30, 1981 desegregation plan calls for the enrollment of up to 20,000 minority students in the permissive transfer program. The report points out that there were 18,600 students in the program the school year before last and 14,500 lastyear. The plan would make all majority-white schools (with one exception) eligible for receiving minority students under PWT. Last year the PWT program enrolled 2.7 percent of the district's students or 3.5 percent of the minority students. If the district were to achieve the goal of its new plan the plan would still reach less than a twentieth of the system's minority pupils. Experience in other cities persuades me that not much more can be expected from such a program within the context of a purely voluntary plan.

Permissive transfer plans would have serious defects in terms of equity and successful desegregation even if they were more effective in achieving desegregation. This program operates in a way that whites are always the insiders at the center of the desegregated schools and blacks or Hispanics are the outsiders. If the school faculty and parents do not face the alternative of mandatory desegregation if the PWT program fails there is no real ihcentive to make the outside children welcome or to adapt the school and its curriculum to their background, culture, and needs. When I visited a number of PWT receiving schools in 1978 and asked the principals and teachers how they had changed things after the new children had arrived the dominant answer was, "Not at all." Students were simply expected to assimilate into an Anglo school not to be part of a changed, multi-cultural,integrated school. The message to the minority community was that there was nothing of real value from their culture that could add to the program. This general attitude pervades a program where almost no white student or family is asked to face face their stereotypes of minority inferiority by entering a school in a minority area and where the stereotype is reinforced by the transfer in of minority students.

I would not argue that the PWT program should be abolished. As I indicated in my 1978 report to the court, I believe that students already in the program should be allowed to finish the school they are now attending and that there should be some form of permissive transfer policy for those students who will remain segregated under virtually any desegregation plan limited to the Los Angeles Unified School District. My point here is simply this--permissive transfer plans in Los Angeles and other big cities are both ineffective and inequitable as a basic strategy for desegregation.

Magnet school plans have been extremely popular in big cities facing desegregation in recent years. The reasons are readily understandable. They bring new resources to school districts, offer the opportunity to offer important new educational choices in financially strapped districts where there have been few new ideas in recent years, and they promise to avoid some of the political problems of busing by persuading students to transfer voluntarily in the belief that they will obtain a better education. I certainly cannot criticize these goals and I believe that magnet schools can be an important part of a good desegregation plan. The problem is that when they are used in a big city as part of a purely voluntary plan they fail. Very few white students transfer to magnet schools, particularly if they are located in black or Hispanic areas. So long as the neighborhood school system remains intact there is little evidence that big city white families will transfer their children regardless of the educational opportunities.

The federal government has had a magnet school assistance program under the Emergency School act, which provided federal desegregation aid until Congress repealed it last month. The only federal evaluation, a study of 17 cities by Abt Associates, concluded that magnet schools in purely voluntary plans did not produce significant desegregation in big cities. Experience with magnet plans in a number of large cities confirms this finding. In Philadelphia, for example, where the city attempted to comply with state desegregation requirements through a magnet school plan some of the schools ended up even more segregated than they were before they became magnets. In St. Louis, where the city school board operated a purely voluntary plan from 1975-80, all but one of the magnet schools were segregated when the Court of Appeals ordered implementation of a mandatory plan last year. In Chicago, a large magnet school plan, "Access to Excellence", designed to comply with Illinois desegregation law did not even reduce segregation by one percent.

The Los Angeles experience was similar. In fact, Los Angeles has experienced very great difficulty in integrating magnet schools even when a mandatory plan was in effect. An excellent report on the city's magnet schools, prepared by the court's monitoring committee, showed that the schools in minority areas failed to draw Anglo students and some schools in Anglo areas failed to draw minority students. A number of the white students who did transfer left schools in integrated areas, thus contributing to the resegregation process there.

The school district's enrollment statistics for last year and the tentative applicant figures for next year vividly illustrate the problems. Last year the district reported an enrollment of 15,786 students in its "Schools of Choice". 61 percent of the students enrolled were from minority groups. In its 1981 plan the LAUSD reported that "many of the schools located in predominantly minority areas have not succeeded in attracting sufficient numbers of white students" but claimed that they were, anyway, "contributing to the alleviation of the harms of racial isolation."

Last year the magnet school program reached 2 percent of the district's minority students (4% of blacks and 1 percent of the Latinos). Among the 5488 black students in the programs 28 percent were attending magnet programs that had an enrollment of 99-100 percent minority students and another 15 percent were in schools that were at least three-fourths minority. Latino students were less severely segregated (perhaps because of the very small proportion participating), but 39 percent of the Latinos were in magnets with at least three-fourths minority pupils. A very substantial fraction of the small number of minority students who enrolled in magnet programs created under the desegregation plan ended up being bussed to another segregated minority school.

The district's April 1981 plan for desegregation of the high schools places heavy emphasis upon new magnet programs. Magnet schools are, no doubt, appropriate as one desegregation strategy for high schools, since they can offer the attraction of a specialized curriculum at a time when students are becoming more vocationally oriented and are, at any rate, traveling longer distances from home to school. A basic problem with the city's proposal, in addition to the more general difficulties discussed previously, is that it will rely on "programs" within schools where the overall pattern of segregation will remain untouched. Experience has shown that desegregation is much more possible when an entire school is given a new identity than when the school remains largely untouched except for the uneasy addition of an unrelated program which is supposed to have a very different racial composition. It is very unlikely that a white parent would enroll his child in a special program in a high school in South Central or East Los Angeles that was planned to have a 95 percent minority enrollment even if the magnet program were successfully integrated.

Experience in other cities has shown that more white students enroll in magnet schools when their families face the alternative of mandatory reassignments. Once it is clear that the neighborhood school is not an option there is a much greater incentive to investigate the educational possibilities offered by magnet schools. In St. Louis, for example, the implementation of a mandatory plan last year, closely tied with ambitious recruitment and counseling efforts for magnet schools and a strong administrative commitment to desegregation goals, transformed a magnet program that had failed to produce integration to one that closely approached 50-50 desegregation in all but one building, including several new magnet schools in black neighborhoods.

In summary, it is clear that the major desegregation strategies incorporated in the school district's plan will leave the segregation of minority students very slightly altered and the segregation of schools in minority communities untouched. Previous experience both in Los Angeles and in many other cities support this conclusion as do the preliminary enrollment figures for next fall.

Mandatory Desegregation Techniques. Virtually all major school desegregation cases have ended with the implementation of mandatory desegregation policies because the courts have been convinced that nothing else would work. Many different forms of mandatory solutions have been devised--pairing, clustering, grade restructuring, educational parks, satellite zoning, etc.-- and there have been many plans which have built voluntary options into the mandatory plan. There are a great many possible approaches and a good deal of research and practical experience on how they work in various circumstances.

The record shows that the most difficult circumstances for initiating broad desegregation plans occur in central city school districts with a large majority of black and Hispanic students and surrounded by white suburbs unaffected by the desegregation order. These inherent difficulties, I am convinced, become much greater under circumstances where the responsible school districts feed and intensify the racial fears that are present when desegregation begins. The greatest problems with the implementation of mandatory plans come at the beginning, particularly among white students assigned to schools in minority areas and the greatest losses occur among students and families who never try desegregated schools. I believe that the loss of white students is increased both by great uncertainty and frequent changes in the plan and by leadership legitimization of racial stereotypes and fears. There is, in any case, good reason to expect much greater stability of enrollment after the first year losses, particularly if the school district delivers a relatively normal school year with some new educational choices for families.

Many urban school districts have managed to integrate schools in minority areas through mandatory reassignment of white students. A number of the Southern districts with county-wide school systems have had few if any segregated black schools since large-scale busing began in 1971. Most of the large districts of Florida (except Dade County), Charlotte-Mecklenburg, N.C., and Greenville, S.C. are among the districts affected. If districts in the South, where white resistance to desegregation was formerly much more intense, can integrate schools in minority areas I see no reason why a properly designed plan could not integrate some schools in minority areas in Los Angeles. It is quite clear that voluntary plans cannot do this.

Los Angeles has had, in an important sense, the worst of all possible worlds. The city school district has paid the price, in terms of loss of Anglo students, for the extremely chaotic and negative implementation of an inherently difficult desegregation plan only to have any chance for a new equilibrium dashed by an unprecedented court-approved resegregation of integrated schools. The city and the court have not moved on to consider the essential question of metropolitan desegregation but have come back again to the same questions and the same uncertainties that have plagued the city for the past three school years.

At the present time I believe that the Los Angeles school district can be compared to a seriously ill patient operated on by a surgeon whose lights were turned off by his boss when a mob burst into the operating room. The patient was hastily sewn up but he is in worse shape than before and the next procedure will be far more complex, but it must be done. It is imperative that the trial court proceed with the greatest possible care and reach a decision allowing ample time for appeals and determination of a firm policy by the beginning of 1982.

I would recommend the following approach:

1) hearings in early fall about the degree to which the enrollment statistics sustain or refute the premises of the city's desegregation plan as well as any necessary hearings on liability

2) appointment of experts, including big city school officials from districts with desegregation orders, to present to the court a detailed analysis of the successful mandatory provisions which have been implemented in Los Angeles and other big cities and the specific procedures and provisions that appear to be related to successful programs

3) a ruling by the trial court on all issues by November so that appellate courts can make decisions and administrators can implement them without the chaotic atmosphere of fall 1978 and fall 1980.

4) provision for full parent and staff involvement in detailed planning. (The extraordinary uncertainty of the previous years has made this important process virtually impossible.)

My analysis of the experience of the Los Angeles district and experience in other big cities convinces me that a mandatory plan with voluntary components would be the only effective way to achieve substantial desegregation within the school district and that a mandatory metropolitan plan would be the best way to achieve stable long-time desegregation for the large majority of black and Hispanic students. A voluntary plan will have very little impact and will place the burden squarely on the backs of the victims of segregation, leaving their communities just as segregated as ever.

Has the School Board Destroyed Its Own Programs?

A principal justification pressed by the school board in legitimizing the dismantling of the mandatory desegregation plan was that Anglo resistance and Anglo flight would make any such plan self-destruct, producing more segregation in the long run. Since the school board has been taken over by anti-busing activists who made this claim the basis of their movement and who may wish to use such evidence to prove their point and rise to higher office, the board is hardly a disinterested or dispassionate by-stander. I have observed many boards going through the desegregation process. In most cases after desegration becomes inevitable school officials try to make the best of it and to preserve public support for public education. The better boards and administrators decide that if the change is to come they should design it and use the opportunity to start some new educational programs. Los Angeles school officials have been peculiarly eager to create the maximum possible chaos and confusion and to issue dramatic statements that could only undermine public confidence in public schools and encourage white parents to withdraw their children. Worse yet, the school board president used the first day of school to issue a vulgar attack on the board's only black member, an act that could only further inflame race relations in a period of extraordinary sensitivity. I cannot recall a similar action in any school district in any part of the country. Those of us who work on race relations know the great importance of symbolic actions on sensitive racial issues. The symbols chosen by the Los Angeles school officials have encouraged and supported resistance to desegregation, whatever the cost to the schools and the school district.

When I was working with the court in 1978 parents and staff in individual schools expressed their great anxiety about the constant changes made in the school district's own plan as the board attempted to accomodate various political pressures. In the final days before school opened the board compounded the problem when it expressed the gravest doubts about the wisdom of its own plan. Successful implementation of desegregation or any major change in a very large bureaucratic institution like the LAUSD requires strong and clear guidance from the top. Erratic leadership at the top creates deep disorder after it spreads confusion through several layers of bureaucracy to the many individual schools. Not only parents but also pupils, teachers, and principals live in complete confusion and any sensible planning is paralyzed. Such an atmosphere is hardly likely to persuade parents to have confidence in the new plan and to try a new school.

My experience as the court's expert in St. Louis last fall showed me the great difference coherent and effective leadership can make. After the court approved the plan in May no significant changes were made. It was possible to tell parents rapidly where their children would be assigned to and to personally advise reassigned students about their magnet school alternatives. Although the board had fought busing in the courts, no board member attacked the plan or made a political issue of it and community leaders mobilized for a peaceful transition. The last demonstrations took place in May. There were problems, of course, but the bitterness and total confusion of Los Angeles were nowhere to be seen. It was a successful school year.

If the first phase of Los Angeles desegregation was very difficult the school officials made the implementation of Judge Egly's plan an event of consummate chaos. Most of the students involved didn't know where they would be going to school until some time after school opened. This occurred after months of public predictions of the end of public education for whites in the city by the top leadership of the school district. If one were to write a manual on ways to undermine and destroy the chances for successful desegregation it would be hard to improve on the 1980 Los Angeles model.

The problems were apparent from the day that the court issued its desegregation plan in May. The plan was assailed in the most sweeping terms by school board members, even though it did end mandatory long-distance busing. School Board President Roberta Weintraub immediately attacked the court, predicted passage of a tax cut referendum, announced that "there will be no educational system left in Los Angeles" and said that "if

I were a white parent I'd be looking for a private school or a new home outside the district." These statements express the spirit of the board's compliance with the court order during the following months. Leaders used their offices not to foster successful desegregation but to mobilize community opposition with little if any concern for potential damage to the school system.

Many similar statements could be cited. Board President Weintraub said that no white parent in "their right mind is going to put a child on a bus to go into an area which is all black." Associate Superintendent Jerry Halvorson said that "only God knows what will happen in September," following Egly's order. Board member Bobbi Fiedler held out the hope of Congressional action against busing and exploited the issue in her successful campaign for Congress while serving on the board. She said that the order could well bring "the destruction of public education in Los Angeles." Board member Bartman denounced the order as a "horrible plan" and board member Ferraro said that it could not be implemented. Board member Brown compared it to the St. Helen's volcano.

Board members continued to pledge legal battles and to express eager support even for last minute changes in the plan that meant the opening of school in almost total confusion. When the Court of Appeal removed nine schools from the plan the Saturday before the opening of school, Board President Weintraub said she was thrilled" and called for dismantling the rest of the plan because it would fail. Board member Fiedler and another GOP candidate earlier joined a protest outside the office of the Special Monitors appointed by the court. The day before school opened the Los Angeles school board took 93 schools out of the first day busing as members expressed their hope for more court orders. As tens of thousands of families were suspended in total uncertainty,the plan changed day by day. Headlines in the final days carried headlines such as : "30 Valley Schools Get Busing; 36 Are in Limbo," "More School Busing Cuts? Bartman, Weintraub Say Yes--But No One's Sure What Happens Next," and "Busing--Still a Guessing Game, Number of Schools, Children Involved Unknown."

On the first day of school a dismal situation became explosive when Board President Weintraub called black member Rita Walters a "bitch" on a radio program. Neither Anglo nor minority parents could feel much confidence in the school district at this point.

The Los Angeles newspapers, including those strongly opposed to busing, and the State Superintendent of Public Instruction described the degeneration of the school district's leadership. The anti-busing Valley News wrote:

> ... an estimated 540,000 pupils will return to what can only be described as a mess.
>
> How can students and their parents know where to attend class if school officials, judges and others involved in the last minute legal crossfire that has marked the busing dispute have not been able to sort things out?

The Herald-Examiner attacked busing but called on the Board to start acting like adults. State Superintendent Wilson Riles called the situation "ludicrous."

It was,by any standard, a dismal beginning to a sensitive, complex and highly controversial set of changes. Los Angeles school officials deserve a large share of credit for the

the problems encountered last fall. For the school board to come into court arguing that these problems prove that no mandatory plan can work in Los Angeles is somewhat akin to an arsonist, who has somehow become fire chief, informing his superiors that the recent wave of fires in the community (many set by himself) prove that the fire department's work is futile and the the department should be disbanded.

There would, of course, have been problems with beginning a new desegregation plan in Los Angeles under the best of circumstances. The fact is, however, that it was begun under the worst of circumstances, thanks in good measure to the inflamatory and irresponsible actions and statements of the leaders of the Los Angeles Unified School District. The Little Rock case, *Cooper* v. *Aaron*, created a firm understanding in desegregation law that public officials could not foment mass opposition to implementation of minority rights and then use that opposition to justify denial of those rights. In its present status, the *Crawford* case comes dangerously close to establishing the opposition proposition--that when a majority can be whipped up to strongly oppose minority rights those rights will be withdrawn. This would mean that the more effective the white demagogue the more constained minority rights would become.

Reaffirmation of Earlier Testimony. During the preparation of this statement I have reviewed my 1980 testimony in this case. Were I permitted to testify now I would reaffirm the testimony about events which had occurred prior to the 1980 appearance.

THE FACTS ON LOS ANGELES

Mr. **Orfield**. Let me say a few things about the situation in Los Angeles, because it is a very important case and created enormous national controversy.

First of all, Los Angeles is not a school district going through slow racial change, where it looked like there was going to be a substantial white presence if there were no desegregation plan. Probably the leading racial demographer, Reynolds Farley, professor of the University of Michigan, was requested by the court in the Los Angeles case to do a demographic projection of what would happen to the school enrollment of Los Angeles, just projecting the trends that existed before there was any busing in the city.

He said by the middle of the 1980's there would be 14 percent Anglos in the Los Angeles school district. So you have to understand that Los Angeles, like many other central cities, Washington, D.C., Chicago, many others, has been going through a broad demographic trend of white suburbanization since World War II. It is simply not true that there were lots of whites having children and sending them to public schools in cities like Los Angeles or Chicago and the courts had chased them away.

The basic fact is that there was a tremendous long-term change in the racial composition of those cities. It has existed many years before these court orders and it will continue if court orders are dissolved, as the Los Angeles one has been.

In 1978 the plan that has been widely criticized was not devised by the court, the Superior Court in Los Angeles; it was devised by the Los Angeles School Board. It was devised under a directive from the court that they design a plan. They came up with their own plan. Those of us who were retained by the court did not think it was a very good plan.

The long-distance busing was done under arrangements made by the Los Angeles School Board. As a matter of fact, when I worked for the judge, I was the first one to request that the times be provided and I tried out transportation routes between some of the paired schools. I found out they were extremely long and made a report to the judge. He ordered them to cut down the travel time to 45 minutes and create midsite schools.

The travel times that were discussed earlier were not what were required by the plan. The very long travel times were in the voluntary part of the plan where black children were getting up very early and traveling 40 miles to get to a white school in a voluntary one-way plan. Because they are voluntary, they have to pick up children over a large area and drive them long distances. Those voluntary plans are much more expensive in terms of busing than the mandatory portion.

Mr. **Edwards**. Are you saying that the mandatory plan did not include trips of over 45 minutes?

Mr. **Orfield**. That was the judge's directive. I am not saying there were no mistakes made. That was his goal. When he revised the plan and took the school board's plan and made it into a court plan in 1980, he cut down the travel times very drastically.

The travel times were to be well within half an hour. Nobody was to be transported over the Santa Monica Mountains under the court order in existence before the California Supreme Court action of last year. The travel times that were existing under Judge Egly's plan were well within the range of travel times that are commonly found in the suburbs of Washington, D.C., or many other parts of the country for busing for nonracial purposes. These are not extraordinary times.

Now in terms of other things such as the school district's cost for desegregation, one of the things I found out when I did a national survey of public attitudes about busing—was that most people believe a quarter of the school budget is spent on busing. Here we heard a figure of one-fourth of $1 billion that the school district spent.

In fact, under the Los Angeles order, the Los Angeles School District received well over $100 million a year not from the local voters but in special assistance from the State of California. Most of that money was not spent for busing but was spent for lowering class size in minority schools, creating special programs, training teachers, and for other purposes. It was spent in very substantial amounts for educational programs. As a matter of fact, the 1980 court order contains specific requirements and protections for bilingual education programs. For example, even if Congress were to repeal the Bilingual Education Act and the State legislature was to repeat the State law, under the Los Angeles order that bilingual program would be protected in the city of Los Angeles.

As a matter of fact, when the school district got out from under the mandatory busing requirements in Los Angeles, they requested that the court continue to direct the State government to provide them all of that additional money that they received under the court order. They also received a good deal of Federal aid, and all Federal aid, of course, has to be spent under the Emergency School Aid Act for educational functions and staff training. It cannot be spent for busing costs.

MAGNET SCHOOLS

With regard to magnet schools as a remedy, we have had in Los Angeles some very valuable experience with magnet schools. The school district tried to use magnet schools as a remedy and they did not work on any significant level as they have not in any of the other very large cities in the country.

Last year, according to the official report by the Los Angeles Unified School District, there was an enrollment of 15,000 schools in what they called schools of choice, 61 percent of these were from minority groups. This amounted to 2.2 percent of the minority children in Los Angeles school districts; 4 percent of the blacks and 1 percent of the Latinos were integrated in magnet schools.

Even if you look at the magnet schools, you find a good many of the children who were in the magnet schools were not actually in integrated schools, they were in magnet schools that were segregated. Twenty-eight percent of the blacks, for example, were attending magnet programs that had an enrollment of 99 to 100 percent blacks, another 15 percent were in schools that had at least three forths minority children.

Of the Latino students in the magnet school, which is a very small number—only 1 percent—more than a third were in schools where more than three-quarters of the children were from minority groups. In other words, even in this small magnet program, many of the children were in highly segregated magnet schools. They did not produce the remedy of integration that was desired and, at any rate, they reached a very small number of children. These schools had costly progrms and long travel times.

The city of Chicago implemented a large magnet program called access to excellence in 1978. The report I did for the State superintendent of education, using their own enrollment data, showed that the level of black segregation which was the highest in the country was virtually untouched. It reduced segregation of blacks by four-tenths of 1 percent, at a cost that our committee, appointed by the State board of education, found to be about $30,000 per student actually integrated.

The Federal Government has done one large study of magnet schools. It was done by ABT Associates under contract to the Federal Government to evaluate magnet school programs. They looked at 17 cities. They found that magnet schools were very ineffective as a sole remedy in reducing racial segregation in big cities. They rarely touched more than a couple of percent of the minority children and they rarely persuaded any white children to move to schools in black or Hispanic neighborhoods. In fact, there is a survey in San Diego where white parents were asked "Would you send your kid to a better school in another part of town?" Most parents said no. There is very strong resistance among whites in big cities and very strong racial stereotypes about whole sections of cities.

RACIAL POLARIZATION AND LOS ANGELES SCHOOL POLITICS

In Los Angeles there was an extraordinary situation where the school board was taken over by a movement, Bus Stop, which was campaigning on a program which is virtually nothing but resistance to the courts. When they became the leaders of the school board—and they contributed the president of the school board and other members—they dedicated themselves to disrupting and destroying successful desegregation processes.

I think I would just like to quote a few things that they said at the time that the court handed down its order last year.

The School Board President Roberta Weintraub, said "No white parent in their right mind is going into an area which is all black," not something that a school board president would say who wanted to make it work. Associate Superintendent Jerry Halvorsen said that "Only God knows what will happen in September," following Judge Egly's order. Board member Bobbi Fiedler said maybe Congress would pass a law that would outlaw busing. She demonstrated in front of the Office of the Court Monitors during her congressional campaign. She said the order could well bring the destruction of public education in the city of Los Angeles. That was a member of the Los Angeles School Board.

Other board members made similar comments. They fought to virtually the last day. As a matter of fact, even after school was open, people didn't know where their children were going to go to school. It was the most chaotic situation I have ever seen in many years of looking at school desegregation plans.

In the last days, when school was opening, headlines such as: "30 Valley Schools Get Busing; 36 are in Limbo," "More School Busing Cuts? Bartman, Weintraub Say Yes—But No One's Sure What Happens Next," and "Busing—Still a Guessing Game, Number of Schools, Children Involved Unknown."

On the first day of school the Board President Roberta Weintraub called the only black member, Rita Walters, a bitch. This is the most distressing situation I have seen, total failure of elected leadership.

I have traveled around the Deep South many times when orders were being implemented. I have never seen anything quite at this level of instability and chaos. Thousands of children didn't know where they were supposed to go to school. They were told by their own school board president and leaders that the public education was at an end, they were advised to transfer to private schools.

Almost the only thing that wasn't done was what former Gov. Lester Maddox used to suggest in Georgia, to let the air out of the tires. It was a situation of massive resistance and it was quite successful in meeting its own objectives, which were not to open decent integrated schools.

DESEGREGATION RESEARCH FINDINGS

My main purpose today is to describe what we found out in research around the country over the last 10 or 15 years. It is striking I think that even though we have had these antibusing amendments up before Congress almost every year. Congress hasn't asked for a study on the educational effects of desegregation since 1964.

In the 1964 Civil Rights Act they asked for one and an important report was produced then. Since we have begun urban desegregation, Congress has never asked for anything. What we find now in this administration is that research budgets are being cut drastically and that there are all kinds of assertions being made in the Congress and in the public debate that simply don't have a basis in fact.

What we have had is a lot of small-scale studies of desegregation impact across the country, hundreds done by school districts, by educators, by research institutes, by students doing dissertations, and so on and so forth. But the only way, in the absence of large national studies which have not been supported since the sixties, that we can understand what is happening is by trying to summarize all of these small-scale studies all across the country.

We have had major summaries done by several scholars over the last 6 years, Nancy St. John, Meyer Weinberg, Robert Crane, Rita Mahard. Very recently you probably saw in the paper a national team of researchers under the leadership of Dean Willis Hawley, Vanderbilt University School of Education.

What these summaries have produced and what we find in the research literature is quite different than what you hear on the floor of Congress or read in the record. Most studies have shown gains for minority children. It is increasingly clear that if we start desegregation at the first grade, we get substantial gains for minority children. The research is virtually unanimous in showing there are no losses for white children in the desegregation process.

In other words, here we have a policy that produces significant gains for the disadvantaged group, the group that has been victimized by segregation and doesn't cost the other group. These results are probably affected by the class and racial composition of the desegregated school.

Early research just looked at achievement scores at the beginning, yearend, added all the children in the school district together. In the research of school desegregation, in the last few years we have found a tremendous broadening of the number of issues that people are looking at and some very encouraging findings about the desegregation process.

We found, for example, that there are some relatively simple techniques that if you apply them in the school desegregation works much better. Researchers at Johns Hopkins, Stanford, Amherst and several other universities have experimented with children inside of desegregated classes.

Now we are trying to find out how it actually works in the class. It is found that if you put children in a cooperative work group a few times a year, to share an experience in solving some kind of a learning problem, both the racial relations in that classroom and the achievement scores increase; with learning techniques like that it can make a positive situation work better.

We are learning that principals are very important—principals of schools—people who run schools, are very important in terms of setting a climate in the school, creating an atmosphere of fairness and helping the schoolteachers adapt to the changed situation. We are learning things about training of teachers. We are beginning to figure out ways to successfully handle bilingual programs in desegregated settings. We are learning in recent research about some of the long-term impacts of school desegregation—how it affects opportunities in college, how it affects opportunities for jobs, how it affects the future desire of a person who has been in a desegregated school to live in an integrated rather than a segregated neighborhood.

Desegregation has a positive impact on both job opportunities and desire for residential integration. These are extraordinarily important outcomes if the society wants to be viable, if it wants to have an integrated existence. We are finding out what kinds of conditions make these outcomes more probable or less probable.

Now since 1975 when James Coleman came out with the report on white flight, we have had a tremendous burgeoning of research in that area, literally scores of studies. Almost every week, if you are on the mailing list for academic journals, you get a white flight article. It has become kind of a small industry. Much more attention has focused on this issue, more than anything else because it has been used in litigation around the country and has become the principal defense of school districts fighting desegregation orders.

There are some things that are clear in this research now, others in my judgment aren't yet resolved.

One of the things that is clear is that school desegregation orders are not the basic cause of decline of white enrollment in central city school districts. Nobody says they are within the research community.

The basic decline existed long before school desegregation orders and it exists in many cities that have never had a busing order, like Washington, D.C., which only had a very small one and very late.

Washington, D.C. was more than half black before the *Brown* decision. Newark, Philadelphia, Chicago, Houston, many others that haven't had busing orders are going through very much the same decline in white enrollment as cities that have had these orders.

In Chicago, for example, there has been a decline of about 10 percent of white students each year for the last several years. They have never bused one white student on a mandatory basis.

Mr. HYDE. It is about 85-percent minority and 15-percent nonminority in Chicago; is that not right?

Mr. ORFIELD. I think it is a little bit higher but that is the right range. The basic cause of this migration is the suburbanization process that took place following World War II and the suburbanization process that has been fed by residential transition, by spread of a ghetto, and so forth.

In Chicago, for example, the first 7 years of the seventies, the ghetto incorporated another 1,000 blocks of territory. Obviously that racial transition affected the school enrollment. It was not a busing process that affected it; it was a failure to deal with the issues of residential integration.

There is a consensus in this literature on white flight that the decline of white students accelerates during the first year of a busing plan implemented in a big city with a large minority enrollment surrounded by white suburbs. Nobody disagrees about that, it happens.

Mr. WASHINGTON. Repeat that.

Mr. ORFIELD. During the first year of a desegregation plan, if implemented in a big city with a heavy black and/or Hispanic poulation, the decline in white enrollment is greater than it would be otherwise. It doesn't appear, however, to make much difference in the long-term racial composition of the city.

For example, in the estimates done for the court in Los Angeles, it showed if there were a decline, and the demographer predicted the decline almost precisely, the school system could end up with 12 percent Anglos in 1985.

Mrs. SCHROEDER. Did they factor in the new interest rates?

Mr. ORFIELD. White flight doesn't make a great deal of difference in terms of long-term direction of racial change in the cities.

A third point of consensus in this research is that school desegregation plans which include as much as possible the housing market area, in other words metropolitan plans which basically make all schools the same in racial composition, are much more stable than plans that are limited only to central cities. Those plans work better, they last longer, they are more effective, and naturally they will produce better results.

There is lots of other controversial issues in this area that I really shouldn't get into now but I would be glad to answer questions about. But on those points there is broad consensus between the people who testify on behalf of school boards and those who testify against them in the courts around the country.

Now in terms of what they recommend there is a lot of difference, but in terms of basic research findings there is not. On the other side of the white flight equation there has been some research in recent years, looking at what effect different kinds of school desegregation plans have on housing integration. This research is producing some extremely interesting results.

Diana Pearce,, who will appear before your committee in the future, looked at a matched set of 14 metropolitan areas, half with and half without metropolitan desegregation plans. And she found residential desegregation was occurring in those areas that had metropolitan school desegregation plans because families were not being told "You don't want to live in that district because its schools are black or its schools are Hispanic." They are being told all the schools are the same.

When she went to test realtors in areas with metropolitan desegregation, realtors said all the schools are good; in other places they said, "Well, the schools aren't too good here." She found in analyzing real estate ads, whenever a school or school district was mentioned, it meant it was a white school or district. So there is a lot of steering when a desegregation plan covers part of a housing market but not other parts.

LONG-RUN EFFECTS

There is some recent research on higher education, on job opportunities, on housing choices after one becomes an adult, which suggests that school desegregation properly implemented can really change people's lives in significant ways. It can make, for example, minority children more likely to enroll in good integrated colleges and more likely to stay there, according to research going on at Johns Hopkins. It can make their job history a good deal more like that of whites. It can tie them to the opportunity structure of the society, give them an idea of how people succeed in the society, give them acquaintance and familiarity with the way that works.

This research isn't anything but definitive at this point. It needs to be looked at in much greater depth. But the early findings are very, very encouraging.

We also have some evidence from surveys of black adults that blacks who go to integrated schools are much more likely to want to live and actually live in integrated neighborhoods. You know, many black families report fear of living in integrated neighborhoods because they feel they will be resisted. People who have experienced integration are more likely to be comfortable and to want it for themselves and their families. This is a very important thing for the future of our society if we are going to be integrated.

Now if future research were to sustain these tentative findings and were to show that residential integration would increase over the long run in places that have successful and stable school desegregation, and that long run life chances for children that are in integrated schools are in fact signficantly better and that they improve as the number of years of integration have increased, we have something of extraordinary importance that we are talking about.

We are talking about in Congress dismantling the only tool the courts have found to be workable in achieving more than a token level of school integration in our country.

It is very disheartening to me when I think we are beginning to understand why desegregation works, how we can make it work better, instead of saying let's pursue it, let's find out where the mistakes are, let's find out what we can encourage and reinforce, instead we are at the period of a meataxe attack on desegregation and on elimination of that tool. It is the only tool the courts have found to be workable in introducing integration in schools in central cities.

THE COURTS NEED HELP FROM CONGRESS

As one who has worked with and talked to Federal judges and State judges I can tell you no judge likes to handle these cases. Everyone wishes that Congress would solve the problem, the State legislatures would create integration, that housing agencies would do it, that school boards would do it, that anybody would do it except them.

Members of the judiciary are not eager to get into these cases. They are not eager to order remedies. The problem is that is where the buck stops. They have to enforce the Constitution. Most people are standing outside calling them names, offering no help.

We ought to at this stage, based on what we know, based on the fact that almost everybody in the society concedes it can't succeed in the long run as a segregated and unequal society, based on the fact that we have cut the ribbons out of the programs that are designed to make the ghetto and barrio function effectively as separate entities we ought to find out about what works, how to encourage it; Congress ought to be demanding that the executive branch summarize what we know about it, generate research as to how to solve the problems we have not addressed.

At all costs we ought to avoid attacks on the courts when we are really not offering any other remedy. I have files full of speeches by Presidential candidates, Members of Congress, local school boards, and so forth, where they say we really ought to do something else. They never say what it is.

There isn't anything else aside from long-term housing desegregation that offers any realistic possibility. That is a very long-range possibility, and it is particularly ironic that many of the people who favor restricting the Federal courts in, school desegregation opposed even what I would judge to be a very moderate and modest fair housing enforcement bill in the last session of Congress.

It may seem quixotic to suggest that Congress do something positive in its present mood. I am convinced, however, that we have been riding since 1960 without thinking seriously about where our society is going, without realizing that the threat from within our society, as one of the only multiracial societies in the world which is trying to be stable and democratic, may in the long run be much more serious than the threat from without. We cannot close the door to opportunity for a large and growing part of our people without risking the loss of a common faith and common hopes and risking a profound fragmentation of our society.

The fact is, we have had almost no creative thought and almost no encouragement from the elected representatives of the people in a generation, which I think is tragic. I commend your hearing, I think it is a very important step and I encourage you to go beyond the legislation that has been suggested and to start thinking again about some positive efforts to encourage an integrated society.

[The statement of Mr. Orfield follows:]

TESTIMONY OF

Gary Orfield
Professor of Political Science
University of Illinois

BEFORE THE

CIVIL AND CONSTITUTIONAL RIGHTS SUBCOMMITTEE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

Sept. 21, 1981

A decade ago, in 1971, the Supreme Court sustained the first city-wide desegregation plan for a major U.S. city in its decision in Swann v. Board of Education of Charlotte-Mecklenburg. During the past ten years many small and large cities have implemented desegregation plans, the great majority in a peaceful manner without any real publicity outside of the immediate area affected by the order. We now have a great deal of practical experience and a far more sophisticated body of research about what works and what does not work in school desegregation plans. Every year since the Swann decision there have been anti-busing proposals enacted by at least one house of Congress, most of which are based on unsupported conclusions about the facts of urban school desegregation. Congress, however, has made no serious effort to find out what is actually happening in desegregated school districts and what has been learned from desegregation research since the Mondale hearings in 1970-1972. The hearings of your committee should contribute very substantially to improving understanding of complicated and emotional issues of vital importance to millions of black and Hispanic children, to the integrity of the judicial system, and to our hope of building an integrated society.

The various constitutional amendments proposed by members of Congress as well as the legislative proposals to limit the enforcement activities of the Department of Justice or to proscribe certain judicial remedies rest on a number of assertions which constantly appear in the speeches and writings of their advocates. I will describe the assumptions of the anti-school desegregation forces, outline the research that has been conducted to date on desegregation processes, and summarize the major research findings. Finally, I will suggest ways in which Congress could address some of the problems that can occur in implementing desegregation orders and some long-term solutions to the busing controversy.

Assumptions of Busing Critics

1) that the courts have ordered busing where some other remedy would work to produce integrated schools
2) that desegregation orders requiring busing harm education
3) that busing inevitably fails because of white resistance and white flight
4) that blacks as well as whites oppose desegregation orders requiring busing
5) that it would be better to concentrate on some other approach such as compensatory education or housing integration and that this would be done if only the busing issue were dropped

Social Science Research on Urban School Desegregation and the Role of Researchers in the Desegregation Debate and in Busing Litigation.

There have been a great many studies of school desegregation since 1954 and our knowledge has increased considerably in the past decade. It is important to realize, however, that most of the research has focused on a limited range of issues and there are a number of extremely important questions on which there is only limited information. As is true in many areas of research there are differences among researchers on some factual issues and policy questions. The major judicial decisions on school desegregation have made little or no use of social science research in determining the guilt or innocence of school districts although both sides often introduce testimony of social scientists. The courts have been wary of the complex and confusing testimony that is presented and are careful to confine their decisions to traditional legal issues--before they order desegregation they find compelling evidence to various local violations such as racial gerrymandering of attendance zones, building schools on segregated sites, intentional faculty segregation, discriminatory transfer policies, and many other violations.

Social science evidence is more important, although by no means decisive, in the process of devising desegregation plans after a district has been found guilty. Federal district judges have broad discretion in designing a plan or responding to a plan developed by school authorities or other parties so long as they approve a plan that will produce prompt and thorough desegregation. In a number of cases the courts have heard evidence on issues such as the best age for initiating desegregation, the values and problems of magnet schools, the necessity for supporting staff training and for educational programs to help overcome the effect of past segregation, and other important issues. In some cases, particularly large urban cases, the courts appoint experts or masters with some experience in desegregation research or school administration to provide advice about the development and implementation of a desegregation plan. These are strictly advisory functions and the court retains the right and responsibility of accepting or rejecting all or part of the recommendations. In some cases the courts have also appointed monitoring committees that employ professional researchers or obtain voluntary service from researchers in providing an independent evaluation of the extent to which the orders of the court are carried out and the extent to which the resulting actions are successful in reaching the goals of the desegregation plan.

My service as a witness in several cases and a court-appointed expert in two cities has permitted me to observe very closely the use of social science evidence in the courts. I have found that most judges are profoundly conservative, at least in the beginning of the cases, both with regard to their reluctance to intervene in local school systems and with regard to their attitude toward researchers who present types of information not often encountered in more conventional litigation. These cases involve very long trials on both liability and remedy issues and judges give extensive consideration to the issues before acting. Judges decide that they must order a remedy because of the cumulative weight of evidence that there was widespread intentional segregation. Having made this determination the courts almost always make a protracted and very earnest effort to have a desegregation plan designed by the local school authorities who have been found guilty. If the local school officials will submit a plan of any sort that complies with the governing legal precedents , the courts will usually approve it.

Judges do not want to run school districts nor do they wish to be forced to decide complex disputes among educational experts and administrators about the best method of accomplishing desegregation. Judges fervently wish to avoid being named to sit on a school desegregation case and they make every effort to keep the role of the court as small as possible even when drastic changes are necessary. In a major school case a judge becomes the whipping boy of local politicians, the subject of intense and incessant attacks, and even the recipient of hate mail and death threats Judges sitting on these cases are frequently personally blamed in their own communities and they usually fervently wish to finish the case and to turn back to a quiet life of normal litigation. In the state courts, where some of the large cases have been fought, the pressures are even more intense since the judges must be reelected and they are well aware of what will happen if they impose an unpopular remedy.

Judges are forced to assume responsibility for designing school desegregation plans because the local school officials usually refuse to design a constitutional plan. After it becomes clear that the local school board will remain defiant the court has an obligation to devise a remedy. At this point the court must rely on the judge's own judgment, the evidence and plans submitted by parties and tested by cross-examination, and any advice the court requests and receives from experts appointed by the court itself.

(It is important to remember that one reason why judges are so often left with this responsibility is because Congress killed an alternative procedure which succeeded in rapidly desegregating most of the South without extensive involvement by the courts--administrative enforcement of Title VI of the 1964 Civil Rights Act. Under Title VI funds for federal educational programs were cut off through administrative proceedings when local school districts refused to comply with current judicial standards for desegregation, as codified and fleshed out by federal education and civil rights experts. The School Desegregation Guidelines under Title VI were responsible for the decisive breakthrough in the desegregation of the rural and small town South from 1965-1968 but the power was taken from the federal government when it began to be applied in the urban areas outside the South. In destroying this enforcement tool the Congress forced more of the decisions into the courts.)

What Does the Research Evidence Show?

If members of this subcommittee were federal judges and had to listen to months of evidence and cross-examination on the best way to accomplish desegregation, I believe that they would conclude that there were some points of relatively strong agreement among researchers about the effects of desegregation and some issues on which there was sharp dispute. If they then went on to read the many scores of articles and studies in the field it is likely that this general understanding would be confirmed.

Most research on desegregation is short-term local research focusing on a very narrow range of questions. Most communities are actively mobilized about the desegregation issue only between the time when it becomes apparent that there is a real and immediate threat of a plan and the time that the plan is implemented and the children and teachers settle into the desegregated schools. For this reason most communities plan special teacher training programs only during the first year and only during the first year study the educational impact so that they can speak to white worried about academic declines. Usually they collect only test scores from early in the first year and from the end of the first year. In some major cities, including Los Angeles, the research is even weaker than this.

We have not had a major national study on desegregation since Congress ordered one in 1964. That study, which produced the 1966 report, Equality of Educational Opportunity, was produced long before the Supreme Court's first busing order. It is interesting that in a decade of debate over anti-busing legislation and constitutional amendments Congress has never directed the production of either a new national study nor a summary of the results of all the local studies and federal evaluation reports. It is as if the authors of the amendments had preconceived views against desegregation orders that they did not wish to test against the available evidence.

Several efforts have been made in recent years to draw together the lessons of all of the scattered local studies, the more systematic research efforts by researchers at universitites and research institutes, and several important evaluations of schools in many districts performed under the federal desegregation assistance program, recently repealed by Congress. These summaries by Nancy St. John, Meyer Weinberg, Robert Crain and Rita Mahard, and, very recently, by a national team of researchers under the leadership of Dean Willis Hawley of Vanderbilt University School of Education, have all produced some common findings:

1) most studies have shown some gain for minority children

2) the more recent summaries, which have separated out research by the year at which desegregation began, show that the gains for minority children depend heavily at beginning desegregation by first grade

3) there are no losses for white children

4) the results are probably affected by the class and racial composition of the desegregated school with better results in predominantly middle class schools in which the minority children make up a substantial proportion of the school population

The research on school desegregation has broadened very considerably in recent years to begin exploration of a number of issues reaching far beyond the educational impact of the desegregation process. During the past six years there has been a great deal of research and debate over the impact of desegregation on "white flight" from city schools. Attracting much less attention but probably of much greater long-term importance have been studies of the internal working of desegregated schools, of techniques for improving both race relations and educational outcomes at the classroom level, and studies of the long-term impact of a desegregated educational experience on attendance and success in college, on career opportunities, and on future residential desegregation in the urban community. Among the extremely important issues on which research is only now getting under way are the impacts of desegregation on Hispanic children and the impact of various ways of desegregating multi-ethnic, bilingual schools. The nature and impact of segregation and desegregation in higher education have not yet been systematically examined.

After six years of debate on the white flight issue there are several points of broad agreement among the scholars who appear as witnesses for opposing sides in school cases as well as in the general research literature:

1) White flight from central city schools developed long before busing orders and is very serious in many cities which never had a court order for city-wide busing (Washington, Newark, Chicago, Philadelphia, Houston, etc.). Its basic cause is the suburbanization of young white families since World War II. Studies of suburbanization have not shown schools to be a central factor.

2) The decline of white students accelerates during the first year of a busing plan in a big city with a large minority enrollment surrounded by suburbs not included in the court-ordered plan.

3) School desegregation plans including as much as possible of the housing market area--metropolitan plans--which make all schools basically the same in racial composition are far more stable than city-only plans.

There are still a number of highly controversial issues in this area of research. David Armor has developed a theory of "anticipatory white flight" which is based on his belief that enrollment declines years before a court order are caused by fear of a future order. There is little certainty about the long-term impact of an order on white enrollment--a demographer employed by the court in Los Angeles, for example, estimated that it would make a difference of about 2% in the percentage of white enrollment remaining in city schools after several years while experts working with the school district lawyers predicted more dramatic results. We do not know, though it is reasonable to expect, that the rate of white enrollment in central city schools would be declining at accelerating rates anyway because of the serious budget cuts and educational declines a number of these systems have been experiencing in recent years.

On the other side of the white flight issue a quite different body of research has been developing that suggests that the most far-reaching desegregation plans will have the most positive impacts on residential integration. Where the schools have been integrated for some years on a metropolitan-wide basis, according to research conducted by Diana Pearce of Catholic University, there has been a substantial decline in residential segregation, much more than is seen in comparable metropolitan areas without fully integrated schools. Her work suggests that there is a substantial agount of steering in the real estate market of white families to areas with all-white schools. Such steering, obviously, cannot operate when all schools in the metropolitan area are integrated.

A substantial body of recent research conducted at Johns Hopkins, Stanford, and elsewhere has examined the ways in which schools could change internally to increase the benefits of desegregation. It seems clear from this research that some relatively simple efforts at the classroom level to give students experience in working together in some interracial groups can significantly increase the positive impacts from the desegregation process. This, and other work showing the importance of the principal's attitudes and leadership, of the perceived fairness of school rules, and other factors within the schools show the great importance of the desegregation aid funds which Congress so suddenly eliminated in the Reconciliation bill. Just as we are learning what these funds could be most effectively used for, they are taken away, at the same time that urban school systems face a great scarcity of local and state funds.

Some of the most interesting of the recent research examines the impact of desegregated education on the life experiences of students after they leave school. Many of the difficulties of integrating schools relate to the great problems of creating and sustaining integration and equal treatment in the schools of a society where segregation and unequal treatment are the general rule in other parts of life. One of the hopes of integrationists has been that the educational experience would, in fact, give the black or Hispanic student a better connection with the "opportunity structure" of the society that generally carries white students to more successful lives.

It is unfortunate but true that there has been no major study mounted on such long-term effects of desegregation. A year from June a number of large Southern cities will begin graduating the first classes of urban high school seniors who have attended schools under city-wide or county-wide desegregation plans since first grade. I wish we could predict more accurately what impact the experience is likely to have on their lives.

Analysis of the data that is available does provide some significant grounds for believing that the impact will be a lasting one in several dimensions of life. Analysis suggests that integration tends to be self-perpetuating. Students from integrated high schools are more likely to go to integrated colleges and more likely to survive there. There educational history and their employment are more likely to be like those of whites. They are more likely to live in integrated neighborhoods as adults. These results are tentative but extremely encouraging.

If future research were to sustain the findings that metropolitan-wide desegregation would tend both to increase residential integration (thus making busing steadily less necessary) and would increase the entrance of minority students into and their success within the predominantly white sectors of higher education and the job market, school integration would obviously stand out as a vital and central element of any strategy for building an integrated society. If the research further confirms the rather strong existing findings that we know readily applicable techniques that can improve the positive outcomes of the desegregation process, those interested in an integrated society would wish to encourage and support such approaches. More than a quarter century after the Brown decision we may be on the verge of learning both how to make the desegregation process function much more effectively and why the struggle for integrated schools has been seen so widely as an essential part of the movement for an integrated society.

It is profoundly disheartening that, at this junction, few policy-makers appear to be interested in what we have learned or how far we have come. Every week in the Congressional Record record I see statements about the urban school desegregation plans which are directly contradictory to what has actually occurred, as shown by the best avialable research. Instead of trying to capitalize on the recent research breakthroughs the Reagan Administration has very drastically slashed funds for research. Instead of providing aid to improve the local implementation of desegregation, the

Administration and the Congress have eliminated the desegregation aid program, with virtually no debate in either house of Congress. Having struck at the research enterprise and refused to assist application of its positive results, many in Congress now propose to eliminate urban desegregation itself, resting their arguments on assertions that are in some instances false and in others unproven.

Analysis of Anti-Busing Assumptions

Desegregation plans do not harm education. If they begin at an early age they significantly help minority students without any negative impact on white students. There are some major districts where the period of rapid reorganization required by the desegregation plan was used to institute simultaneously major educational reforms. In such situations educational achievement for both black and white students has sometimes increased. The existing research contains strong findings about ways in which the positive educational effects could be increased.

Busing plans do not inevitably fail because of white flight. Metropolitan plans, plans in cities with substantial white majorities, plans in free-standing smaller cities and certain kinds of metropolitan suburbs, rural plans, and certain plans within central cities can be very stable. In the Florida metropolitan plans, for example, there was a substantial return of students who initially left public schools. The greatest difficulty comes in heavily minority central city districts under plans that do not touch the surrounding suburbs. In a metropolitan setting with a large minority population it is clear that stability is enhanced by spreading, not diminishing, the area included in the busing plan.

While it is certainly true that most whites are opposed to busing the frequent assertion that blacks oppose this remedy is not true. General polls on the question usually show a white majority of at least three-fourths opposed to busing, but a similar figure supporting integrated schools. National surveys by Gallup and Harris in 1981 show two-one black majorities in favor of plans requiring busing. (The black majorities have been smaller in some earlier studies.) Last fall when more than a thousand black children being bussed long distances in a one-way busing plan within St. Louis were offered a chance to return to neighborhood schools less than two percent opted out of the busing arrangement. Surveys of blacks in several cities with extensive busing plans show highly positive attitudes on most aspects in spite of the fact that most plans put more busing burden on black children. Hispanic attitudes are usually between black and white attitudes, reflecting a much deeper division and uncertainty about the issue.

The interesting thing about white attitudes is that white parents whose children are actually bussed are far more positive than the white public in general. In two separate surveys, in 1978 and 1981, Louis Harris found that a majority of whites whose children were bussed for desegregation said that it was working out successfully. One national survey that explored the apparent contradiction between white resistance to busing and white support for integrated schools asked those who expressed both views simultaneously what they would favor if busing was the *only* way integrated schools could be obtained. The division of the white public on this question was much closer, with about half favoring some degree of busing.

I would like to suggest to the committee that the public information data as well as the findings from the academic research show that Congress itself may be part of the problem. By uncritically reflecting white fears and prejudices, refusing ~~the~~ to examine fully local experiences and research findings, and neglecting the good experiences of most parents and students, Congress may be strengthening fears and resistance rather than lending assistance to a difficult but generally successful process.

Busing is ordered in school cases because nothing else will produce integrated schools. In most cities there are few if any stably integrated neighborhoods with stably integrated schools. A study for the court in Los Angeles found no naturally integrated stable black-white school in a city of some 600 schools. In large cities, voluntary plans have been able to integrate only a small minority of children, almost always through transfer of black and Hispanic children. This finding has been fully documented in the evaluation of the federally funded magnet school program by Abt Associates. In all of our cities there is severe segregation of blacks and continuing spread of ghetto housing, sometimes reaching well into the suburbs. Hispanic residential segregation is substantial but less intense. Hispanic children, however, are even more likely than blacks to attend predominantly minority schools. Every solution other than mandatory reassignment has failed to produce integrated schools. No one has a plan for a workable alternative although alternatives have been discussed for a decade. Banning busing would mean banning urban integration for most children.

Perhaps the more ironic statement of busing critics at this point in time is that it would make more sense to concentrate funds on minority children in poor cities in their segregated schools than on integration. One reason why segregation has never worked is that there is always competition for resources and, in a democracy, a racial majority which also happens to control almost all the major levers of political power almost always allocates resources to itself. At a time when our greatest remaining segregation is in the large central cities we see the same forces which wish to outlaw busing succeeding in cutting both state and federal aid funds (in constant-value dollars) for central city schools. Particularly striking,for example, have been this year's cuts in the Title I and bilingual education programs, which serve so many central city minority children. These moves, and the future Reagan cuts and transfer of discretion to state governments which have seldom been responsive to the needs of poverty schools in big cities, will only fuel litigation for metropolitan desegregation and court orders against state governments. The fact that no one at the state or federal level really seems to care when the schools of Chicago, Detroit, Cleveland, Newark, Boston and other predominantly minority districts are forced to cut drastically into their educational offerings only reinforces the view of civil rights litigators that white America will not accord equal treatment to institutions serving poor blacks and Hispanics.

What Should Congress Do?

I am convinced that Congress could play an extremely important role in school desegregation. When Congress acted in 1964 it accomplished more in changing the racial practices of the South in a few years than could have been achieved through decades of litigation. The courts and the local school officials need help. Each of the following steps would be a substantial contribution:

1) full fact-finding hearings and reports, including field hearings if possible

2) revival of funding for desegregation research and assistance to desegregating school districts

3) refraining from irresponsible attacks on the courts that undermine those working for successful local desegregation

4) enactment of fair housing legislation to help reduce the long-term necessity for busing (this could include a proviso that federally-subsidized programs be used to minimize the necessity for busing by producing integrated communities)

5) provision of incentives for voluntary suburban cooperation in metropolitan desegregation, along the lines of Wisconsin and Massachusetts state laws

6) restoration of Title VI enforcement authority to the Department of Education

It may seem quixotic to suggest that Congress do something positive in its present destructive mood. I am convinced, however, that racial division is one of the great underlying threats to the viability of our increasingly multi-ethnic society. Congress has done nothing to help these problems since the 1960s. It is time to investigate and to think very hard about what we have accomplished and what we have learned about this problem in the last decade. History will not absolve continued failure.

Mr. **Edwards**. Thank you, Professor Orfield. That is an excellent statement and you are a real expert. We appreciate your being here.

Mrs. Schroeder?

Mrs. **Schroeder**. I truly want to thank you for some very good in-depth thought about this difficult issue. And I think what you were getting at was what I was trying to get at with the prior witnesses, what kind of remedy is there?

I hear everybody saying we don't want to tamper with the rights, it is just the remedy we want to tamper with. It all sounds a little hollow if you do not have some effective remedy.

You put your finger on it—the tragedy of the whole area is, nobody wants to get drawn into the debate. Federal judges, State judges, States, school boards: they want to stay out of it if they can possibly stay out of it. That has caused a real breakdown in trying to do it.

They are afraid the issue will get stuck to them. I guess it is easier to throw a grenade than it is to catch it, and in this area it has been true. But from what I hear you saying, in order to make the case for desegregation there has been some beginning research, but you do not feel any of it is really that in-depth?

The smaller research projects have looked very good but there really has not been any nationwide in-depth study.

Mr. **Orfield**. Congresswoman Schroeder, I think there are some findings that are sufficiently clear so we could speak about them with a great deal of confidence. Others are just beginning to be looked at. There are very few resources available for research now, especially from the Federal Government.

I have been chairing the National Institute of Education's committee on desegregation research. I am familiar with what has been proposed and what has been done recently. I think the findings that the desegregation helps minority children if it starts in the first grade appears across so many studies and so many communities and so consistently that we can have a lot of confidence in that finding. I think we can have a lot of confidence in the finding that it doesn't hurt white chldren. Those are well-established.

The things that I think would be very interesting to know about are things like, how does it affect the long-term life of a minority student, a white student, and an overall community as it goes on?

We are just beginning to get a whole generation of urban students in some of the large districts in the South that have been in integrated schools throughout metropolitan areas since first grade. We will start getting graduates like that in 1983 in cities in Florida, North Carolina and in other cities.

How is that going to change the society of those cities? How is it going to change the life of those children who have been in the integrated schools?

The fact is, we can say very little. Most of what we can say now is based on indirect evidence from data collected for other purposes and then subjected to statistical analysis. I think these are going to be some of the most important results of desegregation and we ought to be looking at them.

Mrs. **Schroeder**. Apart from the studies on the children and where they go and so forth, have there been any studies done on why some cities have been able to deal with this issue much better than others?

In other words, you said in Los Angeles you had never seen such a chaotic situation. Is there any model? Is it church involvement, community involvement? Why have some cities been able to get through busing or desegregation with much less disruption?

Mr. **Orfield**. I would like to answer that more in terms of my own observations than in terms of systematic research because I do not think we have the systematic research, although the Civil Rights Commission has done a great many good community studies.

I had the experience of serving as a court (people appointed) expert in Los Angeles in 1978, as one of the eight. I was serving as the court's sole expert in St. Louis for 15 months before I came to Washington. I saw the implementation of desegregation plans in two cities, each about three-fourth minority. It was like night and day.

There were no statements by any board members predicting anything bad for the school district in St. Louis; there were no politicians elected to the school board on that issue. The school superintendent, once he realized he was going to have to do it, decided he was going to make the best of this process. He created a new level of school administration and magnet schools, all of which were successfully integrated, approximately 50 to 50.

They created a system attractive enough so that now some hundreds of suburban white children are beginning to transfer in. On the first day of school, instead of one board member calling another a racial epithet, the school superintendent said that they had had a super day. The police all stayed in their headquarters, nothing happened across the city.

It was a very tough situation to deal with. That school district has had many problems in the past, but extremely positive and strong leadership by the school board and school administration meant that parents could know where their children were going to go to school, what their choices were. They weren't put in a totally chaotic situation.

The schools opened integrated, without any significant incident. Even in the first year, they showed a significant educational gain.

I am sure that as political leaders yourselves, you realize how important responsible elected officials can be in setting the tone. I believe appointed administrators are equally as important within school districts. The extremely important message that superintendents and other top leaders send shows whether or not this is a serious issue, whether or not there is a real educational and professional responsibility.

When Minneapolis desegregated, the superintendent let everybody know he was going to be at the training sessions to learn about the racial background of his students, he expected his cabinet and everybody else who wanted a future in the schools to be there. That conveys a message. Somebody going on TV and saying this is the end of education conveys a very different message.

The people who are down at the end of a transmission belt in a large bureaucracy react to those messages, and react with optimism or hopelessness, with the sense that they are going into an important reform, that they are going to come out with a new accomplishment, or the sense that they are engaged in totally chaotic unproductive activity.

Mrs. **Schroeder**. Thank you.

Mr. **Orfield**. I would like to congratulate you. I think you are one of the Congress people who totally avoided the temptation to polarize her community when the court order came down.

Mr. **Edwards**. Be careful what you say. It might cost her some votes.

Mr. Hyde?

Mr. **Hyde**. Well, I have appreciated your testimony, Professor. Are you at Champaign-Urbana or are you at Chicago Circle?

Mr. **Orfield**. I am at Champaign-Urbana.

Mr. **Hyde**. Just a couple of comments.

You know I have found in parochial schools which are integrated no problem with white parents sending their kids there. If the school is good, if the teachers are competent, if there is a spirit of scholarship, if there is discipline, they get rid of the kids that are there to disrupt, the vandals; race is really not a consideration.

That is one of the problems with private schools versus public schools. The public schools have less ability to cope with disruptive students. They cost a lot more because of union strictures, which I am sure you are familiar with, the need for an electrician to change a light bulb in Chicago, not a student, not a teacher; the need for a painter rather than the fathers' club to wash the school walls down.

You talk about not enough money being spent. When money goes for that sort of thing, legislators get tired and would like to see the money go for education and not for other purposes, which in a more affluent time might be justified.

But tell me something about the ability of a school district, let's say Chicago, to get rid of incompetent teachers? Tell me something about the competency of the teachers in the inner city, why do they get the lousy teachers, let's say, and the Gold Coast gets the good teachers? Why does that happen, or does that happen?

Mr. **Orfield**. I would like to speak to a couple of points you made. One is about the parochial schools.

As a person who spent a few years of elementary school in parochial school, I have always been very interested in their role in the desegregation process.

In Chicago, when I was doing a report for the State board of education, I got the statistics of the archdiocese, found they had more than 50 almost all-black Catholic elementary schools in the city of Chicago. A calculation done this year, as a matter of fact, showed the Catholic schools are almost as segregated in Chicago as the public schools.

In the city of Milwaukee the Catholic schools are trying to develop their own desegregation plan. There is talk of that in the city of St. Louis as well.

I think the Catholic schools are an important resource for minority chldren, and that is important.

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Mr. Hyde. Aren't they segregated because of neighborhood——

Mr. Orfield. Much the same reason, I suspect.

Mr. Hyde. Yes. I mean they are not consciously segregated?

Mr. Orfield. No, they don't have a policy, but they are not integrated either.

Mr. Hyde. By confining it to Chicago that may well be, although I do not know what the facts are. I know in communities that I represent there are integrated schools, parochials.

Mr. Orfield. Many integrated public schools in the suburbs of Chicago as well for many years.

Mr. Hyde. It works fine because of the caliber of the school.

Mr. Orfield. Let me speak to the question about central city teachers.

During the times I have been living in Washington, we have had our children in school here a few blocks from your offices. We have gotten to know many central city teachers in Washington.

I would say some of the finest teachers I have ever seen have been working in the District of Columbia schools. They just have very little support, very difficult financial circumstances, very few middle-class families to work with, tremendous mobility of students, a whole lot of problems. Some of those teachers we found were remarkable. The problem is, they don't get the support that they need.

Mr. Hyde. What do you mean by support?

Now there are highly qualified, motivated teachers, they are there, they have the children; what support are they not getting?

Mr. Orfield. I think some of us who think about integration think of schools having two basic components; one of them is teachers, one of them is students and their families. Those two things affect what happens in a school much more than the building or the books or anything else.

When you decide to send your child to a college, you send him probably because of the general reputation of the college, which is the reputation of the professors and the reputation of the other kinds of students going there.

Now we know that middle-class families bring resources into schools, they bring power into schools, they bring a background of learning and experience with mobility in the society into the schools. That is why integration is so important. They support teachers.

We had a teacher over from a school that had been all segregated, she told us she hadn't had a parent to come to compliment her for 14 years. Most of the parents in poor minority schools are trying to survive. Many are single-parent families on welfare, trying to get a job, unable to keep housing for any length of time because of financial pressures.

No, a school that doesn't have powerful support from people who have power in the society doesn't have the chances that it needs. It may have fine teachers but students teach students as well as teachers teaching students, and parents who have power insist that schools perform. Powerless parents are unable to do that.

Mr. Hyde. I have no more questions.

Mr. Edwards. Mr. Washington?

Mr. Washington. Thank you, Mr. Chairman.

I want to commend you, Professor Orfield, on a very dispassionate presentation.

Mr. **Orfield**. I do not know whether it was dispassionate.

Mr. **Washington**. Very much so, and it balanced an assessment that a prior witness had of you.

I gather you were appointed by the court in Los Angeles.

Mr. **Orfield**. That is right. They appointed eight experts to advise them on different questions that the judge posed.

Mr. **Washington**. So in the narrow sense of the word, you were not a party in interest?

Mr. **Orfield**. Well, I had been consulting with the plaintiffs prior to the time that I was appointed. I had suggested to the court that it would be better for the court to appoint its own experts than to bring adversary experts in from the plaintiffs. I did file a statement subsequent to my service on behalf of the plaintiffs in the Los Angeles case. So I can't say I have never been associated with the plaintiffs; I have.

Most of my work was done as an appointee of the court and responding to the directives of the judge.

Mr. **Washington**. But your experience was nationwide?

Mr. **Orfield**. That is right.

Mr. **Washington**. You are a credit to the school system in the State of Illinois. I wish you would move from Champaign——

Mr. **Orfield**. We have had a desegregation plan with busing in Champaign for 13 years and haven't had a segregated school. Most of the smaller cities in Illinois had similar experience, which no one paid attention to.

Mr. **Washington**. On page 2 you list five assumptions that busing critics maintain and you attempt to answer these critics, and you state that the evidence is not overwhelming but, based on the many studies that have been lodged so far, that most of these assumptions on the basis of the busing critics simply don't hold water.

Mr. **Orfield**. That is correct.

Mr. **Washington**. Which goes to the core of the problem; I think we have to face up to it.

Is this country ready for desegregation?

Mr. **Orfield**. This country has achieved it in lots of places where we thought it was impossible.

Whenever I get discouraged, I go down to the South someplace where I visited years before, talk to people running major school districts, like Mr. Robinson. I find they have a great deal of optimism. In places where there used to be almost unanimous belief among whites that no black could teach a white student, integration couldn't happen, it happened, it is working.

It is one of the big secrets of our country that we have lots of major cities where it has been working for 10 years. We are getting positive results from it. So I think in one sense I am optimistic. In places I never thought it could happen, it has happened, and it is working.

I am pessimistic about whether or not we have the will to learn anything from that and move forward or whether we are in this mood of reaction that we are going to destroy the tools that we should be examining and perfecting.

Mr. **Washington**. I am from a school of thought that is very pessimistic and feel somewhat put upon that we have constantly to be placed in the position of apparent knocking at the door of something out of which they shouldn't have been pushed in the first place. It is disturbing to me, I resent it very much.

In fact, I think blacks who oppose busing are registering my kind of attitude: they feel insulted, put upon by this constant drumbeat of a phony issue designed to destroy busing as a tool only when used to desegregate.

We have come to the conclusion that desegregation is the issue, not busing.

Mr. **Orfield**. That is right.

Mr. **Washington**. We don't want to be funny about it, we want to be candid and we want to make clear we resent it. You can explode all the phony arguments and you are still going to get another, one conceived in malice, designed to frustrate the whole concept of desegregation.

We don't want to be put in the position of beggars, we don't like that, it is insulting. We think we should be treated better than that.

It seems to me that people like yourself who have analyzed this thing very dispassionately, very objectively, are simply not being listened to.

You do not have to comment on that.

Mr. **Orfield**. Well, I have to agree with you, Congressman.

Mr. **Washington**. Thank you very much.

Mr. **Orfield**. Thank you.

Mr. **Edwards**. Professor Orfield, part of your message I guess is that when there are some laws, either by legislatures or through court interpretation, that it is the obligation of public officials, especially elected officials, to comply with the law and not to set an example for the populace in resisting the law; is that correct?

Mr. **Orfield**. That is right.

Mr. **Edwards**. What is going to happen in some of these cities, let's take Chicago, where it is becoming more minority all the time? I will say that that trend is reversing itself in some parts of the country because of transportation, because of better planning, transportation costs and so forth. People are moving from the suburbs back into the inner cities quite generally in our country.

But what about these cities that are almost totally minority: is our job just to make those schools that much better, where integration is almost impossible?

Mr. **Orfield**. What I recommended in St. Louis, and also in Chicago where I did some reports for the State government, and what has been implemented in St. Louis is that within the city there are practical limits on what you can do, but you can do something.

The city of Chicago still has more white students than any but a handful of school districts in the country, and most of them are segregated. There is some possibility of achieving a number of integrated schools and integrated magnet schools in the city of Chicago.

In St. Louis the goal was to make the schools, as many as possible, stable, integrated at about a 50- to-50 level, and to exempt the integrated neighborhoods that already had integrated schools from any kind of busing and try to protect them, give them assistance. I think this is about as much as you can do in a central city in a way that will work and will last.

I think some court orders have tried to do more than can be accomplished effectively. But I suggest beyond that there be a program for housing desegregation, especially in the federally assisted programs, voluntary student exchanges with the suburbs—that has been included in the court order in St. Louis and others—and that the potential liability of the suburbs be looked at by the court. In the *St. Louis* case a number of suburban districts have just been joined to the case and a metropolitan plan may eventually be ordered.

I think that is the direction you have to go to get a remedy for the children who would still remain segregated after what was accomplished and could be accomplished inside the bounds of central city.

In a city like Chicago you have had a situation where the segregation was so high, there were about 250 schools without a single white student; you would have had to move about 92 percent of the black students to different schools to achieve a random nonracial pattern. In other words, we are only 8 percent away from total racial separation of the kind you had in the Old South. You can better that situation but not solve it by any means inside the city of Chicago in the future.

In the Chicago suburbs, more than a fourth of the seats in schools are empty. Many fine schools are being closed in the Chicago suburbs. I think there ought to be Federal incentives to encourage those school districts to voluntarily make spaces available for students from the inner city. It would benefit both those school districts, which would be able to maintain their schools and teachers and the students.

In Milwaukee there is such a State program and a number of suburbs are participating in just such a program. I think it is worthwhile.

You probably remember Congressman Richardson Preyer was recommending this for years.

Mr. **EDWARDS**. I think maybe perhaps one of the first things that the country should do is to realize it is very bad for the health of our country in the long run to have separate schools like that. I think it is tragic that in California the Hispanic children never get a chance to see how the Anglo society is working, and the same for the Anglo society, if they never have any connection as children with the expanding Hispanic population. It is going to result in a lot of trouble down the road which we are already experiencing.

Are there further questions?

We thank you very much. You have been a big help.

[Whereupon, at 12:50 p.m., the subcommittee adjourned.]

[Additional material follows:]

WASHINGTON, D.C., *December 1, 1981.*

Representative DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, Washington, D.C.

DEAR CHAIRMAN EDWARDS: In my testimony before your subcommittee on September 21, 1981 I was questioned about the impact of the school desegregation order on white flight from the Los Angeles public schools. Many members of the Los Angeles school board and other critics of the desegregation order strongly argued that the loss of white students in the district was caused by the desegregation plan and that the end of busing would bring a large return to the city's public schools. The Los Angeles school board was so convinced of this proposition that they insisted on keeping open a number of half empty schools in white areas to accommodate the expected flood of returning white students.

The Los Angeles school board has recently released its first data on the racial composition of its enrollment since the dismantling of the desegregation plan last spring. I request that the enclosed clipping from the Los Angeles Times be printed in the record of the hearing. The data clearly shows that the city's long-term trend of declining white enrollment continued in spite of the return to neighborhood schools and the widely publicized predictions of a white return. The white enrollment loss was smaller than last year but it is important to realize that the white loss also declines sharply within districts with busing orders after the initial loss. In St. Louis, for example, a heavily minority school district in a city where all white children now attend integrated schools the enrollment was more stable this year than in Los Angeles where the desegregation plan was dismantled to attempt to appeal to white preferences. The experience clearly shows that busing is not the fundamental cause of the long-term trend of declining white enrollments and that Congressional action to outlaw busing, even if it were constitutional, would not end demographic changes.

Sincerely,

GARY ORFIELD, *Guest Scholar.*

[From the Los Angeles Times, Nov. 24, 1981]

L.A. SCHOOLS' WHITE STUDENT LOSS CONTINUES

(By David G. Savage)

The Los Angeles school system has lost nearly 5,000 white students from last year, according to an enrollment report to be released today. The new figures refute the contention of some Los Angeles school board members that the end of mandatory busing last spring would result in a surge in white enrollment.

The school district has moved slowly on closing underenrolled schools in the San Fernando Valley, partly because of an anticipated increase in the number of white students.

FORECAST FOR DECADE

"I'm disappointed. I had a lot more hope in August," said board member Roberta Weintraub, one who had predicted more white students would return. "The parents who could afford it got their student out (of public schools) and are making sacrifices to keep them in private schools."

She said the enrollment trends suggest the Los Angeles school system will become "nearly all-Hispanic in the next decade. I think we should seriously consider requiring our new administrators to learn the Spanish language and culture," Weintraub said.

The report noted that the number of Latino students jumped by about 16,000. Latinos now make up nearly half the children in the city's public schools.

In October, the school district reported total enrollment rose by 5,200 students this year, to 543,712, the first big gain in the total number of students since 1969.

But the district's Racial and Ethnic Survey shows the losses of white and black students continued, while Latino and Asian enrollments increased.

About 257,600 Los Angeles students are Latino, 47.4 percent of the total enrollment for the 1981-82 school year. The percentage of Latino students have been increasing by 2 percent to 3 percent since 1974.

White and black students each account for about 22 percent of the district's total. The district survey found a loss of about 5,000 white students and 4,000 black students since last year.

The percentage of white students in the district fell below 50 percent for the first time in 1970 and has been sinking at 2 percent to 3 percent a year. The biggest loss—a 4 percent drop—came in 1978, the first year of mandatory busing. This year, the white enrollment dropped 1.3 percent.

There are nearly 41,000 Asian students in the schools this year, an increase of about 2,000. Asians now make up about 7.5 percent of the district's school population.

Minorities now make up 77.5 percent of total district enrollment.

The school district has lost more than 100,000 students since 1970, but actually has more school buildings in operation now than it did five years ago. A five-year enrollment study released last week shows the district, because of the opening of new magnet schools, has 42 more schools than it did in 1977. The district has held hearings on the possible closure of five schools, four of which are in the San Fernando Valley.

SCHOOL DESEGREGATION

WEDNESDAY, SEPTEMBER 23, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met at 9:50 a.m. in room 2226 of the Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Kastenmeier, Hyde, and Sensenbrenner.

Staff present: Janice E. Cooper, assistant counsel, and Thomas M. Boyd, associate counsel.

Mr. **Kastenmeier**. The subcommittee will come to order for the purpose of further hearings on the question of school desegregation.

Good morning. This morning we are very pleased to greet as our first witness our distinguished colleague from Texas, the Honorable Jim Collins.

Mr. **Collins**. Thank you, Mr. Chairman. Could I ask unanimous consent that my entire statement be included in the record, and I will condense it?

Mr. **Kastenmeier**. Without objection, it will be done and you may proceed as you wish.

[The complete statement follows:]

Statement by Hon. James M. Collins

Proponents of forced school busing have failed to achieve the most important goal—quality education for all children. Consequently, Americans, in record numbers, are demanding an end to forced school busing and a return to the neighborhood school.

Keep in mind that a recent 1981 Gallup poll showed that 72 percent of the American public supports an end to forced school busing. President Reagan has denounced forced busing as "a failure" and Attorney General William French Smith announced the following in a May 22, 1981 speech before the American Law Institute:

"Rather than continuing to insist in court that the only and best remedy for unconstitutional segregation is pupil reassignment through busing, the Department of Justice will henceforth propose remedies that have the best chance of both improving the quality of education in the schools and promoting desegregation."

From year to year the statistics show the negative results of forced school busing, which despite its proponents goals, actually promotes segregation through white flight. This is well documented in studies done by David J. Armour, the well known Harvard trained sociologist and educator. Armour's study, published in 1978, showed white flight (losses in excess of what would have occurred naturally), accounted for over 50 percent of the white losses in 15 out of 23 school districts, as a result of forced school busing.

Yet, advocates of busing state that their objective is to obtain racial balance. However, enrollment in my Dallas school district has moved from 38.8 percent minority in 1968 to 80 percent today, because of busing. This figure has jumped 2 percent since the last school year. The change in the Dallas Independent School District over the twelve year period from 1969–1981 is astonishing. In the 1969–1970 academic school year there were 97,103 anglos. The current figure is 58,819 anglos.

We see the same thing happening in Prince George's County in Maryland and a host of other counties across the nation. In 1972, Capitol Heights Elementary School in Prince George's County was 47 percent black. After a court order for busing was issued in 1972, white flight occurred. In 1980 the percentage of black children at Capitol Heights Elementary School rose to 77 percent and is still growing.

In August of this year, children in Beaumont, Texas were assigned to schools by a ping-pong lottery drawing, as a result of an August 5, 1981 decision by Judge Robert Parker. Now, approximately 4,000 children in grades 4 to 8 have been assigned to schools across town. The South Park Independent School District's figures show that the school district has lost 527 students this year from enrollment last year, since the forced busing order has been implemented. I am also including in my statement an eye-opening fact sheet on Beaumont, which clearly illustrates the turmoil and expense which the S.P.I.S.D. has already encountered—with a busing suit less than one year old.

I am enclosing for the record, a national chart of the increasing percentage of minority students in big city schools.

Forced school busing certainly has not improved education. A key factor is the Scholastic Aptitude Test scores of high school seniors which have dropped 10 percent in the last 15 years. Schools should be able to concentrate their energies on improving these scores and bringing about an overall improvement in education.

Forced school busing has failed to consider the most important aspect—the well being of young children in our school systems. Is it productive to have one student forced to ride a school bus 20 miles away from home while his neighbor attends the neighborhood school? Is it productive to tire young children and frustrate them with long bus rides? Is it productive to send a child on an unnecessary bus ride, so far from home that his parents are unable to pick him up in the middle of the day if he gets sick? Is it wise to make it impossible for parents to participate in their children's education while at the same time, making it impossible for a child to participate in extra-curricular activities, which add so much to educational enrichment?

There are a number of positive alternatives to forced school busing which have actually resulted in a higher quality of education.

Magnet schools.—In Richardson, Texas, we have an outstanding program at Hamilton Park School in a black neighborhood. They allow half of the students to be anglos; and anglos are only accepted where space is available. They have a waiting list until 1985. This school has a full day and the program runs from 7 a.m. until 5:30. Special courses in music, theater, computer, and athletics are included. There is strong parental support and student enthusiasm. Blacks are allowed to transfer, but at Hamilton Park only one black in five years has requested it.

Freedom of choice.—Also known as "open enrollment" where students can attend the school which they and their parents choose.

Special programs.—A special education program such as the one started by Mrs. Marva Collins in Chicago. This fine teacher started her own school in the ghetto in South Chicago. All her pupils are black and live in the neighborhood. She is an excellent teacher and the pupils are motivated. Her pupils have an average reading skill two and three grades advanced of their class level. There is no busing. These are black students who are setting the pace for America with their achievement record.

Mr. Speaker, I could spend hours giving you negative statistics on forced school busing: the cost, the gasoline and man hours wasted, the under and over-utilized school buildings and white flight all showing the absolute failure of school busing. I am including such charts for the record. It is time to end this counter-productive practice of forced school busing, by working to improve the educational experience for every child in America. It can be done and we must begin now. Let us use our resources and energies to restore the neighborhood school and educational excellence and opportunity in America.

THE FORCED SCHOOL BUSING LOTTERY IN BEAUMONT, TEX.

As a result of an August 5, 1981 decision by Judge Robert Parker, approximately 4,000 children in Beaumont in grades 4-8 have been assigned to schools across town through a ping-pong lottery. There are approximately 10,000 in the South Park Independent School District, where the school assignment lottery took place.

According to the SPISD, the impact of the busing order has already had a devastating effect. Consider these figures:

1. In 1981 the SPISD had to order 12 additional buses at a cost of $281,160.

2. Operating costs for this forced busing will be an additional $144,000 per year. Additional maintenance costs will be $40,000 per year.

3. The additional salaries for the transportation of the 3,500–4,000 students undergoing forced school busing, will be approximately $57,573 per year.

Therefore, approximate additional transportation costs for this forced school busing in the SPISD will the $522,733.

4. Because of the shift of students in several school buildings in the SPISD as a result of this order, many buildings are not nearly at capacity level, while others are very over-crowded. The SPISD estimates that the cost in non-use of existing buildings (for utilities etc. which are central and automatic), will cost the SPISD $154,000 per year. Over-use of existing buildings will cost the District close to $28,000 per year. Relocation of portable facilities will cost an additional $12,000 per year.

5. The SPISD estimates that it took more than 2,000 man hours to implement the ping-pong lottery at a cost of $20,000 to the District. This does not include future implementation costs.

6. The SPISD's figures show that the school district has lost 527 students this year from enrollment last year, since the forced busing order has been implemented.

PERCENT OF MINORITY STUDENTS IN BIG CITY SCHOOLS

	1968	1977
Atlanta	61.8	88.8
Boston	31.5	56.1
Chicago	62.3	75.3
Cleveland	57.5	61.5
Dallas	38.8	61.9
Detroit	60.7	81.4
Houston	46.7	66.0
Los Angeles	46.3	63.5
Memphis	53.7	70.6
New Orleans	68.7	83.5
St. Louis	63.5	72.2
San Antonio	73.1	85.2
San Francisco	58.8	72.4
Washington, D.C.	94.4	96.5

DALLAS INDEPENDENT SCHOOL DISTRICT COSTS DUE TO FORCED SCHOOL BUSING

In the Dallas Independent School District, buses travel approximately 5 million miles to take children away from neighborhood schools at a cost of $1.2 million in gasoline alone.

With new school buses getting only 4½ miles per gallon, with an approximate cost of 75 cents per mile, this extra distance is completely senseless.

The total cost for transportation for Dallas County Schools has risen sharply from $545,087 for the 1970 academic year, to $5,030,086 for the 1979 academic year.

In 1979 the cost of pruchasing a regular 72 passenger school bus was $8,039, but rose to $20,000 per bus in 1979.

Since 1979 the number of bus routes, with desegregation plans, in the DISD has increased from 40 bus routes in 1970 to an amazing 475 bus routes in 1979.

There are similar statistics for other cities under going forced school busing.

TESTIMONY OF HON. JAMES M. COLLINS, REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. COLLINS. Mr. Chairman, the 1981 Gallup poll showed that 72 percent of the American public supports an end to forced school busing. President Reagan has denounced forced busing as a failure and Attorney General William French Smith, in May of 1981, said that to insist on the court having this as its only remedy, henceforth that there should be other remedies that can be imposed.

We have several of those to suggest. We have seen David Armor, who is a Harvard sociologist, prove that "white flight" accounted for over 50 percent of white losses and that it resulted out of forced school busing. If you take enrollments in my own school district in Dallas, and remember that, what they are talking about is ending segregation. Yet what has happened in our city is an increase from a 38-percent minority enrollment school district to where it is an 80-percent minority school district—80 percent minority. So, instead of ending segregation, what we have tended to do is completely segregate the public school system in our city.

In my Dallas school district we had 97,000 Anglos when we started forced busing; we now have 58,000 Anglos today. We could cite Prince Georges County in Maryland. They have a school over there that in 1972 was 47 percent black, and today it's 77 percent black. It's the same story all over the country.

Now, the way these judges go about this is haphazard and sometimes I believe a hard-to-defend method. Down in Texas, not since the days of Goliad, have we worked out the solution by drawing the black ping-pong balls. Back in Goliad this is how they decided who got killed. Today, if you draw a certain ping pong ball in Beaumont you get bused. In Beaumont, instead of taking any equity, any fairness, any equality of opportunity, it's just a question of did you draw the wrong ping-pong ball.

In scholastic aptitude tests from the time—and after all, that is the measure of what is happening to education in America—from the time that we actively started school busing 15 years ago, the scholastic aptitude tests in America have just been in a steady decline. Today a senior knows 10 percent less than a senior knew at the time that they graduated 15 years ago. And that's in spite of having better buildings, better facilities, and better teachers who are higher paid in terms of real dollars. Teachers are making more in real dollars than they did 15 years ago. And we even have classes that have smaller sizes.

There are many disadvantages to forced school busing, as we all know, as far as individual students are concerned. A student who is forced to be bused across town develops tensions; a student that is forced to bus across town develops fatigue. They're not able to play with friends after school. If they get sick in the morning at 10 o'clock they've got to wait until 3:30 or 4:00 before they can get home. If they want to go out for athletics or want to be in a school play, they miss out. It's just contrary to the entire concept of growing up.

We have two alternatives which we think should be considered very, very strongly. In my own area down in Dallas we have a school in the Richardson School District which is not only superior in academics but is superior in what they came up with. They are volunteer schools. It's Hamilton Park and it's in the middle of a neighborhood that is predominantly a black neighborhood. They told any white students anywhere in town that they would give them an opportunity to come. They have a tremendous waiting list of students who want to come to that school. They also have told any black student that didn't want to stay in the school, they had the right to transfer. And in 5 years, only one black student has asked to transfer out.

Now, there are many reasons for the success of this school. They have advanced classes; they even have a computer technology; they teach languages. They have a program which I think is a tremendous help to people that are working. They let them come in at 7 in the morning and keep them there until 5:30 or 6 in the afternoon. They have crack teachers. But in any event, because they have set up a model school, there is a big waiting list. It's been a success, and the students that have come out of there show well on all of their grades and all of the aptitude tests.

The other thing that would be an excellent alternative is to have freedom of choice. What could be more fair than to let any student in the city choose any school where they have the type of studies that they want. In many cities, for instance, they teach German only in one school. Give them a right to go to that school. If they want to specialize in some type of prearchitectural or preengineering training, they ought to be able to go to that school or whichever school they want. That's freedom of choice, because if you do that, every youngster in every city has exactly the same square opportunity.

The percentage of minority students in the big city schools isn't just confined to my city. We're ruining the school systems of America because no longer are they able to have balanced schools.

Now, I'll just take some of these figures of minority student enrollment between 1968 and 1977 which happen to be the last figures I have. Atlanta has grown from 61 percent to 88 percent; Boston has gone from 31 to 56; Cleveland from 57 to 61, and has moved very rapidly in the past few years. Dallas in 1968 was 38, in 1977 it was up to 80; Detroit, 60 to 81; Los Angeles, 46 to 63. You can go down the line. The only one that hasn't changed much is Washington, D.C., which is 94 percent in 1968 and 96 percent now.

There's one other thing, Mr. Chairman, I think we should very carefully keep in mind. If we continue to eliminate the public school concept, eliminate the concept that the public schools represent all of the students throughout the entire city, you're going to find that tax support is needed, public support is needed, and it's the community standing behind the schools that's needed. If we don't let the schools represent all of the students in the city, in the future, the entire public school system of this country can be challenged and it will lack the public support that it needs for its growth and for its future.

Thank you, Mr. Chairman.

Mr. KASTENMEIER. Well, we thank you, Congressman Collins. I might add for the record, Congressman Collins, you have sponsored an amendment to the Justice Department authorization on the subject, as I recall.

Mr. COLLINS. That's right, Mr. Chairman.

Mr. KASTENMEIER. Will you spell out the amendment for me, just for the purpose of the record?

Mr. COLLINS. In order that the Justice Department could concentrate on crime, this amendment specifies that the Justice Department, as is the right and the prerogative of Congress—as we know, we can specify their duties, but in this amendment we specify that no student—in other words, that the salary of no one in the Justice Department or no funds will be appropriated for Justice Department expenditures that involve the transportation of any student beyond the school that's nearest to his home. In other words, it simply would take the Justice Department from starting new lawsuits.

Now, it doesn't keep them from persisting in following up on the suits that they have; nor does it prevent them from using other alternatives besides busing. In other words, they could go to the magnet schools or go to the freedom of choice, or any other alternative I might also add, that an amendment has come up in the Senate, which goes beyond this and is even more constructive than this amendment because it limits the distance which you can go from school and also it has a 50-minute time limit, and also a mileage distance. And if that continues to prevail on the floor, that would give us even more grounds for ending forced busing.

Mr. Kastenmeier. I take it you have also cosponsored other initiatives?

Mr. Collins. I very strongly do and I might say that the constitutional amendment and Mr. Mottl's amendment is coming very close, we hope, to coming on the floor. I understand we only lack 20 cosponsors or 20 signatures to get a discharge petition to bring it to the floor.

Mr. Kastenmeier. You remember the fate of that amendment in the last Congress.

Mr. Collins. Yes; but I believe that as more and more cities have had an opportunity to learn about forced busing, that we will do better.

Mr. Kastenmeier. From your statement, I gather you, of course, are opposed to mandatory school busing determined by the courts. You are for freedom of choice, you are for magnet school programs, and you are for other special programs devoted to achieving equal opportunity among the races for education; is that correct?

Mr. Collins. We have so much pretraining which has been vital, and if I had one suggestion, it would be to provide for opportunities for youngsters to go to work. I think it's one of the unfortunate situations Dr. Williams, up at the University of Pennsylvania, has stressed, too. But the great need in America is for more youngsters to be able to take pretraining, to have more job opportunities while they're young, to take care of their idle time and also to better adjust them to society.

Mr. Kastenmeier. One of the points you suggest is that educational achievement test scores have declined as a result of busing. But it's been observed that the decline in the SAT scores is really nationwide, that this is a general phenomenon of public school systems. Since only 3 percent of the children in America are bused under desegregation plans, the decline cannot be attributed merely to busing alone.

Mr. Collins. We did check the private schools and the public schools. The private schools do better, and I would have felt it is because of the pressure on public schools that they wouldn't do as well. The private schools have consistently done better than the public school system. In fact, we even had one survey in Dallas where the children that were force-bused, compared to those that were not, showed a perceptible difference.

Mr. **Kastenmeier**. I think that may be the case in any event, as private schools do achieve higher levels, irrespective of busing, I might add, than public schools. If the busing plan were not imposed by the court, or the State plan, and was mandated by the school district itself without resort to the court, would you also object to that?

Mr. **Collins**. No, I wouldn't. But what has happened, Mr. Chairman, that has resulted many times in the past, is that the board of education or the Department of Education has very strongly suggested that in order to have any Federal funding, that they better bring them on. I don't know of any school system in America that would willfully, voluntarily ever put their students under a forced busing system. You see, it's all contrary to the whole system. It all began under the *Brown* case. A black child was seven blocks from home and they forced her to be bused. So they told that little girl, they said, "You're entitled to go to the school nearest to your home and they can't force you to be moved."

Then we turn and we have done diametrically the opposite. We don't let children go to the school nearest to their home and we force them to be bused. We have exactly reversed it. And you're a lawyer. You know that wasn't the intent of the courts.

Mr. **Kastenmeier**. I think the intent of the decision was to achieve school desegregation, not necessarily by busing, but only as a last resort if we failed—and I say we, collectively.

Mr. **Collins**. What's the limitation on freedom of choice to let the child go anywhere in the city they would want to? It seems to me the fairest of all, and they tried that and the courts ruled they couldn't do it.

Mr. **Kastenmeier**. I assume we could have a long, productive colloquy on the subject. In any event, I want to thank you for your interest in the subject. I know it's been of keen interest to you over the years.

Mr. **Collins**. It really is, because I think education, just as you do, is the greatest challenge and greatest opportunity and the greatest feature that those of us in Congress can devote our efforts to. I am inserting specific charts on the examples I mentioned in my statement for the record.

Thank you, Mr. Chairman.

Mr. **Kastenmeier**. Do counsel have questions?

[No response.]

Mr. **Kastenmeier**. Thank you very much.

Next, the Chair would be pleased to greet our honorable colleague, who will testify today, the distinguished Congressman from California, Mr. Norman Shumway. We are very pleased to have you with us.

TESTIMONY OF NORMAN D. SHUMWAY, MEMBER OF CONGRESS

Mr. Chairman, and members of the subcommittee, I thank you for your decision to hold hearings on the subject of arbitrary school assignment, and am equally grateful for this opportunity to present my views on this subject to you. I realize this is a sensitive subject, and there are those who are standing by who will be prompt to criticize you or me for whatever position or decision we may take.

Nevertheless, the subject is of such importance in America today that I believe we must act, and do so decisively.

I appear at your subcommittee today as the father of six children, all of whom have been or now are being educated in the public school system of this country. I also appear before you as a devote believer in the American system which guarantees freedom for all citizens of this country, and provides recourse and remedies where freedoms have been violated. In this context, let me make it clear that I fully subsecirbe to the ideal that all children in America regardless of race, or distinction, are entitled to a full and challenging educational opportunity. Racial bias, and the segregation which often results from it, should have no place in our school system nor, for that matter, should it be tolerated in any part of our society. Equality of opportunity is a cornerstone of the American way of life, and I am fully committed to protect it or see it achieved in a greater degree for all Americans.

Prior to being elected to Congress in 1978, I served as a county supervisory in my home state of California. During that period of time, my children attended schools in Stockton. In 1977, the Stockton Unified School District abandoned the concept of neighborhood schoole and began a plan of cross city busing as its remedy to alleviate segregation. The inevitable "white flight" followed immediately after. Two neighboring school districts to the north of Stockton, Lincoln Unified and Lodi Unified, received an influx of new students so great that portable classrooms and double sessions were required. The situation continues even to this day. As a result, the former "majority" in many of Stockton's schools has now become the "minority", and the school district has been hard pressed to make its program work. Thousands of new homes have been built in North Stockton and Lodi, creating many vacancies in the inner city and contributing to the overall decline of Stockton's older neighborhoods.

I fully recognize that statistics can be put together in such a way as to indicate that desegregation programs like Stockton's have been successful. Indeed, in Stockton Unified School District, a desegregation task force recently issued a report which indicated that several schools in the district had made substantial improvements toward complete desegregation. However, the statistics cannot evaluate properly some of the intangible factors connected with forced school assignment, and it is these factors which I think are the primary reason why forced busing as a remedy for desegregation has not been effective in terms of enhancing educational opportunity for America's youth. I am satisfied, based upon my own experience, that busing is divisive remedy, and works a hardship towards both the minority and majority children and families. In fact, literally hundreds of families have contacted me to express their extreme frustration at the busing program. In many cases, they have arduously saved money in order to purchase a home in a neighborhood which would feed to a school more to their liking, only to find that the school district has reassigned their children or perhaps many of the other children in that school, back to the inferior schools from whence they came. In many such cases, hopes have been dashed, and in my opinion, the American ideal has been lost.

We have attempted to foist off onto our school children, and school systems in general, the burden to solve a social problem which is not unique to schools. The problem really traces back to our patterns of housing and construction of neighborhoods. Accordingly, our efforts to resolve the problem should be directed at this level. Our failure to do so, and the resulting blame and burden on the school system, has victimized America's youth. Some of our students, realizing that they have been moved about like pawns on a chess board for no reason of their own making, have emerged from the system somewhat embittered and perhaps even more biased than preceding generations.

It seems to me that if equality is not present in our school system, we should work to achieve it by spending money and resources to enhance the educational environment. Our money would be better used if it went into finer school facilities and better opportunities within the classroom. I fully support the idea of creating a more favorable ratio between teachers and students in schools which have had a history of low test scores. Other incentives could likewise be offerd, to the end that schools could be made more attractive and desireable for students of all races to attend.

Finally, I know that my remarks will be criticized by some as reflecting a white majority viewpoint. I know of no way to address this sensitive issue in a meaningful fashion and avoid such criticism. However, I believe that we have come to the point where all Americans must necessarily prioritize their ideals. The guarantee of freedom for all citizens under the 14th Amendment, rather than the erstwhile "freedom" to attend a racially balanced school as asserted by some, is simply a higher need and a more worthy goal for America today. I believe that it would be served by ending the arbitrary assignment of students to schools based upon their race or other such factors.

TESTIMONY OF HON. NORMAN SHUMWAY, REPRESENTATIVE IN CONGRESS OF THE UNITED STATES FROM THE 14TH DISTRICT OF CALIFORNIA

Mr. SHUMWAY. Thank you, Mr. Chairman, members of the subcommittee.

I would like to express my appreciation to you for holding hearings on this subject and my appreciation for the opportunity to be here to speak to you on my views on the subject. I realize it's a very sensitive one, and certainly there are those standing by who will be prompt to criticize you or me for whatever position or decision we may take. Nevertheless, I think the subject is of such importance in America today that we must act, and I think we must do so decisively.

I appear at your subcommittee today as the father of six children, all of whom have been or now are being educated in the public school systems of this country. I also appear before you as a devoted believer in the American system which guarantees freedom for all citizens of this country, and provides recourse and remedies where freedoms have been violated.

In this context, let me make it clear that I fully subscribe to the ideal that all children in America, regardless of race or other distinction, are entitled to a full and challenging educational opportunity. Racial bias and the segregation which often results from it should have no place in our school system nor, for that matter, should it be tolerated in any part of our society. Equality of opportunity is a cornerstone of the American way of life, and I am fully committed to protect it or see it achieved in a greater degree for all Americans.

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The inevitable "white flight" followed immediately after. Two neighborhood school districts to the north of Stockton, Lincoln United and Lodi Unified, received an influx of new students so great that portable classrooms and double sessions were required. The situation continues even to this day. As a result, the so-called "majority" in many of Stockton's schools has now become the "minority." and the school district has been hard-pressed to make its program work. Thousands of new homes have been built in North Stockton and Lodi, creating many vacancies in the inner city and contributing to the overall decline of Stockton's older neighborhooods.

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However, it's my feeling the statistics cannot evaluate properly some of the intangible factors connected with forced school assignment, and it is these factors which I think are the primary reason why forced busing as a remedy for desegeregation has not been effective in terms of enhancing educational opportunity for America's youth.

I am satisfied, based upon my own experience and observations, that busing is a divisive remedy and works a hardship towards both the minority and majority children and families. In fact, literally hundreds of families have contacted me to express their extreme frustration at the busing program. In many cases, they have arduously saved money in order to purchase a home in a neighborhood which would feed to a school more to their liking, only to find once they got there that the school district has reassigned their children, or perhaps many of the other children in that school, back to the inferior schools from whence they came. In many such cases, hopes have been dashed and, in my opinion, the American ideal has been lost.

We have attempted to foist off onto our school children, and school systems in general, the burden to solve a social problem which is not attributable to schools. The problem really traces back to our patterns of housing and construction of neighborhoods. Accordingly, our efforts to resolve the problem should be directed at this level. Our failure to do so, and the resulting blame and burden on the school system, has victimized America's youth.

Some of our students, realizing that they have been moved about like pawns on a chessboard for no reason of their own making, have emerged from the system somewhat embittered and perhaps even more biased than preceding generations.

In that respect, Mr. Chairman, I believe we are taking steps backwards, which we cannot afford to do.

It seems to me that if equality is not present in our school system, we should work to achieve it by spending money and resources to enhance the educational environment. Our money would be better used if it went into finer school facilities and better opportunities within the classroom. I fully support the idea of creating a more favorable ratio between teachers and students in schools which have had a history of low test scores. Other incentives could likewise be offered, to the end that schools could be made more attractive and desirable for students of all races to attend.

Finally, I know that my remarks will be criticized by some as reflecting a bias, perhaps a white majority viewpoint. I know of no way to address this sensitive issue in a meaningful fashion and avoid such criticism. However, I believe that we have come to the point where all Americans must necessarily prioritize their ideals.

I believe the guarantee of freedom for all citizens under the 14th amendment, rather than the erstwhile "freedom" to attend a racially balanced school as asserted by some, is simply a higher need and a more worthy goal for America today. I believe the need would be served by ending the arbitrary assignment of students to schools based upon their race or other such factors.

Thank you, Mr. Chairman.

And again, I appreciate this opportunity to address the subcommittee.

Mr. **Kastenmeier**. Thank you for presenting your views.

Mr. **Shumway**. Money and resources that we are now spending for busing programs should be put in the classroom in terms of better teacher-pupil ratios and other things that I have alluded to in my testimony, I really think we would enhance our quality of education. I think test scores would come up and, in the process of doing so, we could solve the difficult social problem.

Mr. **Kastenmeier**. In other words—and I don't say this critically—what you would have is a separate but more than equal educational system. You would have a separate system, you could dedicate resources to the upgrading of those various schools, rather than move students around; is that it?

Mr. **Shumway**. You might characterize it that way. I would prefer to describe it as—well, let me first say I certainly do not endorse the concept of separate but equal. But I think we could break out of that separate but equal framework not by judicial fiat requiring forced busing, as we have experienced in the past several years, but by making some schools so attractive in terms of their educational achievements and their output and the caliber of instruction, with things like field trips, audiovisual facilities that might be available to groups of students in that school, that by choosing to do so, the people of this country would break out of that separate but equal idea. In other words, you might call it a magnet school, but I think the school system could be made attractive enough so that people, of their own free choice, would say, "Hey, I want to be there. I want to be part of that. That looks good to me."

And thereby we would get what we wanted to do in terms of solving the social problem, to the extent that schools can, without having a court decree saying it has to be done by one method, which I believe, has not been totally effective.

Mr. **Kastenmeier**. As far as Congress is concerned, do you recommend changing the Constitution, a constitutional amendment?

Mr. **Shumway**. Well, I wish it were not necessary to change the Constitution. Frankly, I think we should not be toying with that document willy-nilly, particularly in an area as controversial and as difficult as this one. But it seems to me if you can achieve no other kind of relief, we at least should set up the flag of warning that we are going to resort to this unless there are other legislative remedies.

The courts can see that this is a system that many of us in Congress are no longer pleased with, no longer can support, and change their decisions accordingly.

I'm satisfied that now we have so refined our scrutiny of the 14th amendment that we can, much better than just two or three decades ago, identify those areas where indeed discrimination is taking place and apply meaningful remedies. I'm just suggesting that school busing, as its been forced upon us in the past, is not the kind of remedy we should be looking for. I think if the courts could understand that and we could get away from that, a constitutional amendment would not be necessary.

Mr. **Kastenmeier**. Well, we appreciate our colleague's deep interest in this vexatious question of school desegregation and his earnest views on the subject. And we thank you for your appearance.

Do counsel have any questions.

Ms. **Cooper**. Yes, I have one. Thank you.

In the next few months the subcommittee will be hearing from a variety of educators and social scientists and others with some expertise in the field. Some of these persons feel very strongly that the evidence is there that only through actual desegregation that decreases the racial isolation of minorities can there be educational improvement for minority students. They contend that the evidence is there, that when desegregation does occur, achievement does go up. They are also of the view that voluntary programs, such as magnet schools and compensatory programs without desegregation do not work.

If the evidence is so strong that you came to agree with their conclusions as to the educational need for desegregation would that alter your view as to the wisdom of busing as a remedy?

Mr. **Shumway**. No. I would say it would not.

I have heard those arguments. I have seen those statistics. We have essentially heard that same thing over the past several years as busing decisions have been made. The social sciences have come in and said that essentially minorities cannot achieve quality education in the segregated classrooms and therefore we must necessarily transport the students throughout the district. I think I am quite well aware of what they will tell this committee and the evidence they will furnish you. I am satisfied again they can cite statistics to support their viewpoint.

But I—frankly, I've seen figures that range all the way around the wall. I think that perhaps, just as much, there could be statistics cited by social scientists on the other side, indicating that these programs have not been successful.

But what I am suggesting to the subcommittee is that more than what these numbers might reveal, there is an intangible aspect of this that maybe cannot be quantitatively evaluated and that is in terms of what we are doing to people and the way they think about racial problems in our society, how neighborhoods are constituted, how school districts are weakened and are no longer able to present a sound program because of white flight, whatever you might characterize it as. Those are the things that I think likewise have to be considered and balanced against the figures and evidence which will be offered by the social scientists.

I just think, in my view, with that great array of thought and evidence, my priorities would have to come down on the side of those who see that we have now experimented with forced busing in America and it has not been successful because of the attitudes created. Because of the the backward progress that has prompted, we should abandon it as a remedy.

Ms. **Cooper**. Thank you.

Mr. **Kastenmeier**. Mr. Boyd.

Mr. **Boyd**. Thank you, Mr. Chairman.

Congressman, last week the subcommittee heard testimony from Dr. Robinson from Charlotte, N.C., the superintendent of the Mecklenburg County schools. You may recall that Charlotte was involved in the *Swann* case in 1977, which produced an important mandate for forced busing, and ultimately was confirmed by the Supreme Court.

It was his testimony that in the first few years after the 1971 decision Charlotte experienced a significant amount of disruption, white flight, and a decline in test scores. But since 1975, he testified that trend has reversed itself, with the result that the test scores have approached a level never before attained.

In Stockton, is it your experience that there has been any sort of reversal or change in test scores?

Mr. SHUMWAY. No; I can't tell you what those scores are. I haven't seen them. I have been back here for the last 3 years and just have not—they haven't been published, to my knowledge, nor have I sought them out.

Mr. BOYD. Thank you.

Mr. SHUMWAY. What I am speaking about primarily is just the attitude which I, as a politician from Stockton, am really quite aware of and feel that I am somewhat expert in describing. The Stockton test scores have to be presented somewhere else.

Mr. BOYD. What sort of a bus trip is normal for the students?

Mr. SHUMWAY. Being bused in Stockton, perhaps a maximum of 50 minutes.

Mr. BOYD. Each way?

Mr. SHUMWAY. Each way, a minimum of 15 minutes each way.

Mr. BOYD. Thank you, Mr. Chairman.

Mr. KASTENMEIER. Well, again, let me thank our colleague for his appearance.

[Witness excused.]

Mr. KASTENMEIER. Our next witnesses are three persons constituting a very distinguished panel, but the Chair is going to recess the hearing just a few minutes to enable more of our colleagues to attend and have the benefit of Dr. Diana Pearce from the Center of National Policy Review; Dr. David Armor from the Rand Corp.; and Prof. Christine Rossell from Boston University.

[Recess.]

Mr. EDWARDS. The subcommittee will again come to order.

In the last few years, concern over white flight has dominated the debate on the chances for success of school desegregation plans. But in the public debate, little in the way of hard evidence has been produced. Today we hope to begin to correct that record, for three of our witnesses bring to their testimony careers of careful objective study of the impact of school desegregation on housing and schooing choices.

Is white flight so linked to schooling desegregation that the latter is doomed to failure? Conversely, can school desegregation plans be implemented that lead to stable desegregated neighborhoods that eventually need no school busing?

Those are some of the things we hope to talk about. And now we are going to hear from our panel of experts.

TESTIMONY OF DR. DIANA M. PEARCE, CENTER FOR NATIONAL POLICY REVIEW, CATHOLIC UNIVERSITY; DR. DAVID ARMOR, RAND CORP.; AND PROF. CHRISTINE ROSSELL, BOSTON UNIVERSITY

Mr. EDWARDS. Our first panelist is Dr. Diana Pearce. Dr. Pearce is director of research at the Center for National Policy Review at Catholic University. Her recent study, "Breaking Down Barriers—New Evidence on the Impact of Metropolitan Desegregation on Housing Patterns," provides fascinating and encouraging insights into the dynamic relationship between housing and schooling segregation and desegregation.

Then we are going to hear from Dr. David Armor. Dr. Armor is senior social scientist at the Rand Corp. Dr. Armor has authored several well-known studies on the subject of white flight and has testified in a number of school desegregation cases.

Then finally we are going to hear from Christine H. Rossell, professor of political science at Boston University. Professor Rossell is also the author of several distinguished studies on the subject of white flight, although her conclusions differ from Dr. Armor's.

I am going to suggest the questions from the members be reserved until all members of the panel have presented their statements. Without objection, all of the full statements will be made part of the record.

We are now going to hear from Dr. Diana Pearce.

[The complete statements follow:]

STATEMENT BY DIANA M. PEARCE, DIRECTOR OF RESEARCH, CENTER FOR NATIONAL POLICY REVIEW

Thank you for the opportunity to testify before your committee today on the question of busing remedies for school segregation. My name is Diana Pearce and I am Director of Research at the Center for National Policy Review [illegible] Catholic University Law School here in Washington, D.C.

I am going to start with my "punch line", and that is that "The Best Way To End Busing is by Busing."

It is tragic that Congress is, at this time, considering measures that would seriously weaken the efforts to eliminate unconstitutional segregation of America's public schools. It is tragic, first, because we are finally making real progress; segregated schools have been virtually eliminated in many states, much of the South and many of the smaller cities of the North, Midwest and West. It is tragic, for it is achieving widespread acceptance by those people and communities experiencing it; while it is not surprising that the overwhelming majority of blacks endorse busing, it should be noted that of those whites who have experienced busing, 85 percent found it very or partly satisfactory (Harris Poll, March, 1981). Each year, new communities quietly begin desegregation programs such as Indianapolis this year and St. Louis last year, but widespread acceptance and peaceful inaugurations of busing do not make the news.

Finally, it is ironic because evidence is now accumulating that broad-based school desegregation plans that use busing, not only end racial isolation of both white and minority students, but break down barriers in housing as well, leading to increased housing integration. And of course, with increased housing integration, less busing is necessary for schools to be integrated. It is on this phenomenon that I will concentrate my testimony today.

To anticipate, a question frequently rasied by the above statement is that on resegregation; that is, does not mandatory busing lead to such massive white flight that schools as well as housing end up resegregated rather than integrated? The short answer to that is "it depends."

The first white flight studies concentrated on central city school districts which had relatively large, and often rapidly growing, minority concentrations, and were surrounded by virtually all-white suburan areas. (Coleman, et al, 1975) Though white flight is sometime quite significant in these cities, it began long before school desegregation was even a possibility, and it continues to characterize a number of cities that have never had any school desegregation. (Orfield, 1978) Chicago is a prime example of such a city; it is now losing between 10 and 15 percent of its white enrollment per year, more at the lower grade levels, and this is occurring in the absence of any desegregation plan. (Pearce, Darden, Farley, 1981)

Later white flight studies have taken account of such previous trends, plus the nearly universal demographic decline in birth rates, particularly among whites. Though disagreeing on the magnitude of the additional losses attributable to school desegregation, there is a consistent agreement that the losses are much less in school districts which have desegregated on a metropolitan-widebases (Armor, 1980; Rossell, 1978; Farley, et al., 1980; Giles, 1977; Social Scienties' Statement, 1980).

But the differences go beyond that; broad-based, metropolitan school desegregation has a profound effect on housing patterns. To determine what those effects were, and their magnitude, I conducted an intensive study of a number of cities. (Pearce, 1980) Because the effects on housing take longer to become apparent—one can change school racial composition virtually overnight, while it may take years for housing changes to become apparent—cities were selected that had had a metropolitan desegregation plan in effect for at least five years. Not all of these, by the way, were court-ordered; several were a mixture of community-based action and outside pressure by state, federal, or civil rights groups. But all involved busing and all resulted in very large decreases in the levels of racial isolation in the schools.

Each of these was then matched, as closely as possible, with a community similar in size, racial composition, ethnic mix, and region. The major difference in each pair was that one had had metropolitan school desegregation for at least five years, while the other had had no, or only partial, desegregation. (See Appendix tables for list of cities.)

In each pair of cities, it was found that the community that had had metropolitan-wide school desegregation had experienced substantially greater reductions in housing segregation than the otherwise-similar community that had not had broad-based school desegregation. Moreover, the trend seems to be cumulative, that is, housing integration continues to rise year after year. Riverside, California was the earliest of the cities in this study, having begun their desegregation program in 1965; by 1978 they had eliminated busing in all but four of the twenty-one elementary attendance areas; the other seventeen school attendance areas had become sufficiently racially integrated so that busing was no longer necessary in order to maintain racial balance in the schools. The same phenomenon is occurring elsewhere as well; as the Superintendent testified a few days ago, Charlotte has been able, with each revision of its plan, to reduce busing, and just last year, removed from the busing program a neighborhood and its school because it is now sufficiently residentially integrated so as to not require busing for racial balance. Evanston, Illinois began busing black students to every school in the system a dozen years ago, but now only three schools are integrated by busing; the rest are neighborhood schools, integrated by black, white, and Hispanic students who walk to school.

Why and how does broad-based school desegregation reduce housing segregation?

1. *It changes the housing choice process.*—Courts as well as social scientists have recognized that segregated schools contribute to housing segregation. Schools tend to stamp their identity on the neighborhood, and school boundaries often actually define neighborhood boundaries. When schools are segregated and racially identifiable they tend to influence housing choices along racial lines; whites are not likely to buy in a neighborhood with a black or minority school, while minorities may find it difficult to buy into a community with a white school.

A survey of real estate brokers' practices in the study cities revealed that, where the schools are segregated, whites are steered away from minority or mixed schools. Likewise, a HUD study of housing discrimination in forty cities (HUD, 1979) documented the use of schools to steer homeseekers, as in the following remark recorded by one of the homeseekers in Monroe, La.: [Agent said] . . . "that no blacks attended the school where the #2 inspected house was located."

Real estate advertising practices in the study cities showed similar patterns. If school names were neutral geographic information, they would be mentioned about as often in one city as another. But that was not the case; schools were mentioned in newspaper ads much more frequently in the cities with segregated schools, i.e., where they give information about the race of the school and neighborhood as well as the location. Moreover the actual schools named were overwhelmingly white and not a single ad in any city named a predominantly minority school. (see Table 2; the median was 98 percent, i.e. half of the named schools were 98 to 100 percent white.) In short, racially identifiable schools facilitate housing choices along racial lines. In contrast, when schools in a metropolitan area are racially integrated, other less segregative choice factors become more important, and the surveyed real estate agents were much more willing to show homes throughout the community.

2. *It supports the integrated neighborhood.*—By exempting integrated neighborhoods from busing, as is true of many desegregation plans, a positive incentive is set up that supports the development of integrated neighborhoods and helps to counteract racial transition. In many metropolitan plans, the only neighborhoods that have neighborhood schools are those that are racially integrated.

3. *It gives experience with integration that reduces the fears of both blacks and whites.*—Not only the students, but the parents experience working together with school staff on the common goal of education for the children. The advent of residential integration is thus not a totally new experience, and may well be encouraged as a means to acquiring a neighborhood school.

4. *It makes desegregation the legitimate and official position.*—Segregated schools implicitly but powerfully give legitimacy to segregation as an organizing principle for all areas of life, for adults as well as children. Desegregated schools, by supporting integration in public education, and giving it official sanction, reinforce and support integration in other areas, including housing.

These research studies and recent trends lead to three conclusions:

1. *Busing, when used in broad-based plans, is a temporary solution.*—While seen by many critics as a "bitter pill," busing should also be seen as an effective, and relatively rapid, cure for the disease of segregation. In a sense, we can have our cake and eat it too; that is we can overcome the illegal segregation of school children, and get rid of busing, if we but give it the opportunity to work.

2. *School segregation is a metropolitan problem, and it therefore requires a metropolitan solution.*—We have long since recognized that for many of our urban problems, we cannot stop at the border of the central city; it would be absurd to stop water pipes, sewage disposal, or mass transit trains at the city boundary. Likewise, individuals searching for good art, good books, or good schools, are not bound by municipal lines. If we are to have stable and longlasting solutions to school segregation, they must be metropolitan solutions.

3. *We are indeed moving towards two societies, but in a different sense than the Kerner Commission meant.*—The commission warned that America was moving towards two societies, one black and one white, and I think that that is true of many cities where there has been little or no reduction of segregation in the schools (or elsewhere.) In these cities, segregation in one area reinforces it in others, in a vicious circle that locks racial groups into spiraling inequality. In contrast, in the "other" society are cities that have gone a great distance along the road to solving the problems of inequality of opportunity (which is not to say that all the problems have been solved) and metropolitan desegregation has been a key element in that progress. As a nation, I think we must ask ourselves which society we want in the future.

The choices facing Congress today are whether or not to support and encourage the very real, and very difficult, struggles of the many communities such as Charlotte, Wilmington, Indianapolis, and Wichita which are seeking to create real equality of opportunity for all their citizens. That support can take the form of facilitating local and voluntary solutions as well as providing direct Federal support for the ending of unconstitutional segregation.

The alternative would be to turn the clock back, and to turn our backs on the children of America. We would all—black, brown, and white—be losers. And it would be tragic and ironic to do so, at this time, just as it is becoming clear that under the right circumstances and with the will, we can end segregation and busing.

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APPENDIX

Estimates of Segregation Levels[a] for 1960, 1970 and 1980 Based on School Enrollment[e] and Demographic Data (By Census Tract)

City	(1) 1960 SMSA	(2) 1970 SMSA	(3) Percent Change 1960-1970	(4) 1970 UA[b]	(5) Post-1970 Index	(6) Year of Data	(7) Source	(8) Rate of Change/year	(9) 1980 estimate	(10) Percent Change, 1970-1980
Bridgeport	66.3	71.3	+7.5%	71.1[c]	71.2	1976	School enrollment data, HEW (OCR).[d]	+ .02	71.3	+ .3%
Springfield*	**	70.2	-	71.9[c]	69.6	1978	Kindergarten enrollment.	- .58	68.4	-4.9%
Richmond	74.5	76.6	+2.8%	83.5	70.4	1978	U.S. Special Census.	-1.64	67.1	-19.6%
Charlotte*	75.6	72.3	-4.4%	84.1	67.7	1976	Public school enrollment by race, by census tract.	-2.73	56.8	-32.7%
Augusta	72.2	58.6	-18.8%	68.7	—	—	—	--	--	--
Greenville*	38.1	42.7	+12.1%	59.9	50.3	1976	U.S. Special Census.	-1.60	43.9	-26.7%
Atlanta	77.1	81.7	+6.0%	83.8	77.7	1978	Atlanta Regional Commission.	-.76	76.2	-9.1%
Tampa-St. Petersburg*	83.6	84.5	+1.1%	87.7	77.1	1977/1976	Planning Department Estimate of Population (Tampa)/U.S. Special Census (St. Petersburg).	-1.63	71.4	-18.6%
Saginaw		78.9	-	85.8[c]	78.8	1978	School enrollment, Saginaw metropolitan area, HEW (OCR).	- .88	77.0	-10.2%
Racine*	**	71.7	-	72.8[c]	62.5	1978	School enrollment and busing data, Racine school system.	-1.29	59.9	-17.8%
Tulsa	88.6	85.5	-3.5%	89.8	85.5	1978	Planning Department and school estimates combined.	- .54	84.4	- 6.0%
Wichita*	88.5	87.0	-1.7%	86.3	77.3	1978	Household enumeration (census).	-1.12	75.1	-13.0%
San Bernardino[f]	71.4	73.0	+2.2%	70.5	62.8	1975	San Bernardino Census of Ethnic Population.	-1.54	55.1	-21.8%
Riverside*[f]	75.8	57.0	-24.8%	58.8	44.7	1978	1978 Special Census.	-1.76	41.2	-30.0%

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*Cities with metropolitan-wide school desegregation.

**These cities were not SMSAs in 1960.

[a] The measure used is the Index of Dissimilarity. (0=no segregation, 100=complete segregation.)

[b] Unless otherwise indicated, data in this column are calculated from 1970 census data for the Urbanized Area.

[c] Estimates in these cities are based on the same schools used for the Post-1970 estimate; the data are from 1972 in the case of Bridgeport and 1974 in the case of Springfield, and 1970 in the other cities.

[d] For districts surrounding Bridgeport, when data was not available on a school by school basis, it was assumed that all minority children were equally distributed among that district's schools; thus this estimate is conservatively low.

[e] All school data is for elementary schools only.

[f] Since Riverside and San Bernardino are in the same SMSA, these figures are for the central cities.

Frequency of School Names and the Racial Composition of Schools Named in Real Estate Ads, by City

				Racial Composition of Named Schools:[a]					
City	Total # Ads	Per Cent w/ School Named (N)	χ^2 Level of Significance (d.f. = 1)	Number of Schools with Racial Composition Unknown	Per Cent of Schools with known Racial Composition that are. . . 99-100% white	95-98.9% white	90-94.9% white	Less than 90% white	Median Per Cent White
Bridgeport	1250	1.5 (19)	7.07	8	27	27	0	46	96
•Springfield	1145	.4 (5)	$p < .01$	4	100	0	0	0	100†
Richmond	1500	2.3 (34)	5.63	8	0	65	15	20	98
•Charlotte	934	1.0 (9)	$p < .05$	1	0	0	0	100	80
Augusta	317	4.4 (14)	12.4	3	0	36	18	46	90
•Greenville	807	1.1 (9)	$p < .001$	2	0	0	0	100	77
Atlanta	1920	6.6 (126)	122.8	39	51	18	8	23	99
•Tampa-St. Petersburg	2377	.5 (13)	$p < .001$	1	0	7	64	29	90
Saginaw	333	4.2 (14)	5.46	4	70	0	0	30	99
•Racine	325	1.2 (4)	$p < .05$	0	0	0	0	100	84
Tulsa	1820	10.7 (195)	26.5	21	41	25	24	10	98
•Wichita	620	3.9 (24)	$p < .001$	1	75	4	0	21	100
San Bernardino	516	2.3 (12)	.008	2	70	30	0	0	99
•Riverside	340	2.6 (9)	n.s.	0	0	11	22	67	89
TOTAL	14,204			94	38	23	17	22	98

• Community with metropolitan-wide school desegregation.

†Based on a single case.

[a] Source: Directory of Elementary and Secondary School Districts and Schools in Selected School Districts: School Year 1976-1977, Vol. I & II, U.S. Department of Health, Education, and Welfare, Office for Civil Rights, n.d.

Dr. PEARCE. Thank you for the opportunity to testify before your committee today on the question of busing remedies for school segregation. I am going to start with my "punch line," and that is that the best way to end busing is by busing.

It is tragic that Congress is, at this time, considering measures that would seriously weaken the efforts to eliminate unconstitutional segregation of America's public schools. It is tragic, first, because we are finally making real progress. Segregated schools have been virtually eliminated in many states, much of the South, and many of the smaller cities in the North, Midwest, and West.

It is tragic, for it is achieving widespread acceptance by those people and communities experiencing it, as you heard people testify before the committee. While it is not surprising that the overwhelming majority of blacks endorse busing, it should be noted that of those whites who have experienced busing, 85 percent found it very or partly satisfactory. (Harris Poll, March, 1981)

Each year, new communities quietly begin desegregation programs, such as Indianapolis this year and St. Louis last year, but widespread acceptance and peaceful inaugurations of busing do not make the news.

Finally, it is ironic because evidence is now accumulating that broad-based school desegregation plans that use busing not only end racial isolation of both white and minority students but break down barriers in housing as well, leading to increased housing integration. Of course, with increased housing integration, less busing is necessary for schools to be integrated. It is on this phenomenon that I will concentrate my testimony today.

To anticipate, a question frequently raised by the above statement is that of resegregation—that is, does not mandatory busing lead to such massive white flight that schools as well as housing end up resegregated rather than integrated? The short answer to that is, "It depends."

The first white flight studies concentrated on central city school districts which had relatively large and often rapidly growing minority concentrations and were surrounded by virtually all-white suburban areas. Though white flight is sometimes quite significant in these cities, it began long before school desegregation was even a possibility, and it continues to characterize a number of cities that have never had any school desegregation. Chicago is a prime example of such a city. It is now losing between 10 and 15 percent of its white enrollment per year and even greater numbers at the lower grade levels, and this is occurring in the absence of any desegregation plan.

Later white flight studies have taken account of such previous trends, plus the nearly universal demographic decline in birth rates, particularly among whites. Though disagreeing on the magnitude of the additional losses attributable to school desegregation, there is a consistent agreement that the losses are much less in school districts which have desegregated on a metropolitan-wide basis.

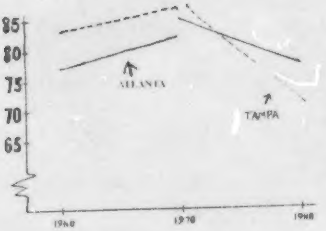
But the differences go beyond that. Broad-based metropolitan school desegregation has had a profound effect on housing patterns. To determine what those effects were and their magnitude, I conducted an intensive study of a number of cities. Because the effects on housing take longer to become apparent—one can change school racial composition virtually overnight, while it may take years for housing changes to become apparent—cities were selected that had had a metropolitan desegregation plan in effect for at least 5 years. Not all of these, by the way, were court-ordered; several were a mixture of community-based action and outside pressure by State or Federal Government entities or civil rights groups. But all involved busing and all resulted in very large decreases in the levels of racial isolation in the schools.

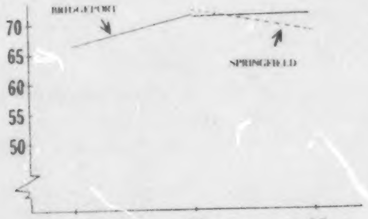
Each of these cities was then matched as closely as possible with a community similar in size, racial composition, ethnic mix, and regional location. The major difference in each pair was that one had had metropolitan school desegregation for at least 5 years, while the other had had no or only partial desegregation.

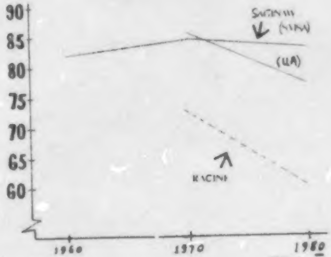
In each pair of cities, it was found that the community that had had metropolitan-wide school desegregation had experienced substantially greater reductions in housing segregation than the otherwise similar community that had not had broad-based school desegregation.

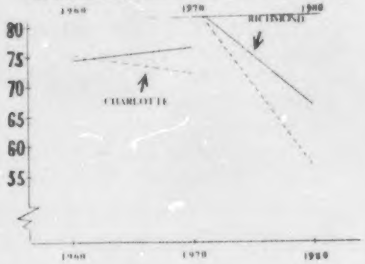
I refer you to the chart that I brought with me here today. The cities that have the metropolitan broad-based desegregation plans are shown with the dotted line, and the ones without school desegregation with only partial or no desegregation are shown with solid lines. They measure three points in time—1960, 1970, and 1980. The level of segregation is measured by an index called "index of dissimilarity," and the numbers of the levels of index are shown on the lefthand side. When the line goes down, that shows a decline in the level of segregation.

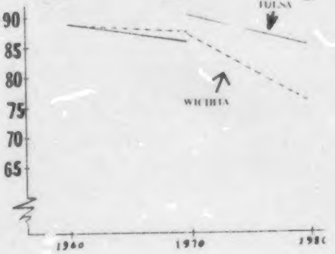
TRENDS IN RESIDENTIAL SEGREGATION IN THE SIXTIES AND SEVENTIES

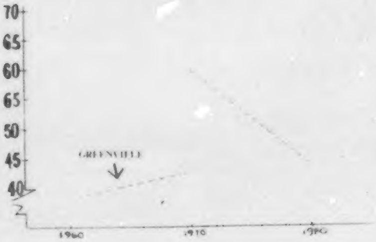


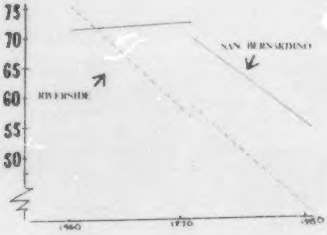












As you can see, in each case, by 1980, a city with a metropolitan desegregation was substantially more integrated and integrating at a more rapid rate than the other city in the pair.

Do you want me to take you through a couple of cities?

Mr. **Edwards**. Yes, would you, please.

Dr. **Pearce**. Take Charlotte and Richmond. During the 1960's—neither city changed very much in terms of the level of residential segregation, and that was a pattern that is true through most of the United States in the decade of the 1960's. There has been very little change in residential segregation. Even as we have passed civil rights laws, they have had relatively little impact on levels of housing segregation. In fact, in some cases, some of the cities that were later to desegregate their schools were actually increasing a little bit; for example, Greenville was increasing its level of residential segregation in the sixties.

In the decade of the 1980's, though, the two cities split and are changing very rapidly. As you go into the 1980's, one can see the cities are going to become farther and farther apart in their residential patterns and that Charlotte has during the 1970's experienced much more rapid residential integration than did Richmond.

Obviously, other factors can play a part in this. The point of pairing the cities was to try to get two cities as close together in every other way, and as you can see, these cities tend to be quite close together during the 1970's, but when one of them had metropolitan school desegregation, it had a dramatic impact on residential patterns.

Almost all the cities desegregated around 1970 except for Riverside, which started a desegregation plan in 1965, and already by 1970 its housing had become more residentially integrated, and it is now quite low in residential segregation.

Moreover, the trend seems to be cumulative. That is, housing segregation continues to decline year after year. Riverside, Calif. was the earliest of the cities in this study, having begun busing in 1965. By 1978, they had eliminated busing in all but four of the 21 elementary attendance areas. The other 17 school attendance areas had become sufficiently racially integrated so that busing was no longer necessary in order to maintain racial balance in the schools.

The same phenomenon is occurring elsewhere as well. As the superintendent testified a few days ago, Charlotte has been able, with each revision of its plan, to reduce busing and just last year removed from the busing program a neighborhood and its school because that area is now sufficientlly residentially integrated so as to not require busing for racial balance.

Evanston, Ill. began busing black students to every school in the system 12 years ago, but now only three schools are integrated by busing. The rest are neighborhood schools, integrated by black, white, and Hispanic students who walk to school. Other cities that have exempted integrated neighborhoods from their busing programs include St. Petersburg and Wichita.

Why and how does broad-based school desegregation reduce housing segregation?

The first reason, I believe, is that it changes the housing choice process. Courts as well as social scientists have recognized that segregated schools contribute to housing segregation. Schools tend to stamp their identity on the neighborhood, and school boundaries often actually define neighborhood boundaries. When schools are segregated and racially identifiable, they tend to influence housing choices along racial lines. Whites are not likely to buy in a neighborhood with a black or minority school, while minorities may find it difficult to buy into a community with a white school.

A survey of real estate brokers' practices in the study cities revealed that where the schools are segregated, whites are steered away from minority or mixed schools. Likewise, a HUD study of housing discrimination in 40 cities documented the use of schools to steer homeseekers, as in the following remark recorded by one of the white homeseekers in Monroe, La. The agent said, "that no blacks attended the school where the No. 2 inspected house was located."

Real estate advertising practices in the study cities showed similar patterns. If school names were neutral geographic information, they would be mentioned about as often in one city as another. But that was not the case. Schools were mentioned in newspaper ads significantly more frequently in the cities with segregated schools, that is where they give information about the race of the school and neighborhood as well as the location. Moreover, the actual schools named were overwhelmingly white, and not a single ad in any city named a predominantly minority school. See table 2, which is appended to my testimony.

The median percentage was 98-percent white, meaning half of the named schools were 98- to 100-percent white. In short, racially indentifiable schools facilitate housing choices along racial lines, locking these communities into a vicious circle with school segregation reinforcing housing segregation and housing segregation reinforcing school segregation.

In contrast, when schools in a metropolitan area are racially integrated, other less segregative choice factors become more important, and the surveyed real estate agents were much more willing to show homes throughout the community.

A second reason that metropolitan desegregation has this effect on housing patterns, is that it supports the integrated neighborhood. By exempting integrated neighborhoods from busing, as is true of many desegregation plans, a positive incentive is set up that supports the development of integrated neighborhoods and helps to counteract racial transition. In many metropolitan plans, the only neighborhoods that have neighborhood schools are those that are racially integrated.

Third, it gives experience with integration that reduces the fears of both blacks and whites. Not only the students but the parents experience working together with school staff on the common goal of education for the children. The advent of residential integration is thus not a totally new experience and may well be encouraged as a means to acquiring a neighborhood school.

Fourth, it makes desegregation the legitimate and official position. Segregated schools implicitly but powerfully give legitimacy to segregation as an organizing principle for all areas of life, for adults as well as children. Desegregated schools, by supporting integration in public education and giving it official sanction, reinforce and support integration in other areas, including housing.

These research studies and recent trends lead to three conclusions:

First, busing, when used in broad-based plans, is a temporary solution. While seen by many critics as a "bitter pill", busing should also be seen as an effective and relatively rapid cure for the disease of segregation. In a sense, we can have our cake and eat it too; that is, we can overcome the illegal segregation of school children and get rid of busing, if we but give it the opportunity to work.

Second, school segregation is a metropolitan problem and it therefore requires a metropolitan solution. We have long since recognized that for many of our urban problems, we cannot stop at the border of the central city. It would be absurd to stop water pipes, sewage disposal, or mass transit trains at the city boundary. Likewise, individuals searching for good art, good books, or good schools are not bound by municipal lines. If we are to have stable and long-lasting solutions to school segregation, they must be metropolitan solutions. Given the increasing artificiality of municipal boundaries, it is hypocritical to ignore segregation without metropolitan organization of schools.

Third, we are indeed moving toward two societies, but in a different sense than the Kerner Commission meant. The Commission warned that America was moving toward two societies—one black and one white—and I think that that is true of many cities where there has been little or no reduction of segregation in the schools or elsewhere. In these cities, segregation in one area reinforces it in others in a vicious circle that locks racial groups into spiraling inequality. In contrast, in the "other" society are cities that have gone a great distance along the road to solving the problems of inequality of opportunity, which is not to say that all the problems have been solved, and metropolitan desegregation has been a key element in that progress. As a nation, I think we must ask ourselves which society we want in the future.

The choices facing Congress today are whether or not to support and encourage the very real and very difficult struggles of the many communities such as Charlotte, Wilmington, Indianapolis, and Wichita which are seeking to create real equality of opportunity for all their citizens. That support can take the form of facilitating local and voluntary solutions as well as providing direct Federal support for the ending of unconstitutional segregation.

The alternative would be to turn the clock back and to turn our backs on the children of America. We would all—black, brown, and white—be losers. And it would be tragic and ironic to do so at this time, just as it is becoming clear that under the right circumstances and with the will, we can end segregation and busing.

Mr. EDWARDS. Thank you, Dr. Pearce. We will now hear from Dr. David Armor.

STATEMENT OF DAVID ARMOR, Ph.D.

SCHOOL DESEGREGATION AND WHITE FLIGHT

HEARINGS BEFORE THE CIVIL AND CONSTITUIONAL RIGHTS SUBCOMMITTEE
OF THE U.S. HOUSE JUDICIARY COMMITTEE

September 23, 1981

DAVID ARMOR, Ph.D.

Dr. Armor is a Senior Social Scientist at the Rand Corporation in Santa Monica, California, where he conducts policy research in the fields of education, military manpower, and health. His essays on desegregation include "School and Family Effects on Black and White Achievement," (Mosteller and Moynihan, On the Equality of Educational Opportunity); "The Evidence on Busing" (Public Interest); and "White Flight and the Future of School Desegregation" (Stephan and Feagin, School Desegregation).

As an expert witness Dr. Armor has prepared studies and testified in a number of school desegregation cases including Dallas, Pasadena, San Diego, Atlanta, Omaha, Milwaukee, Seattle, Los Angeles, and Pittsburgh. He has also testified before U.S. Senate and House Committees on desegregation issues, and attended a special White House conference on desegregation policy.

Prior to joining Rand in 1973 Dr. Armor was Assistant and Associate Professor of Sociology at Harvard University. While at Harvard he consulted for the U.S. Office of Education's study on the "Equality of Educational Opportunity" (the Coleman report), consulted for the U.S. Commission on Civil Rights in the preparation of "Racial Isolation in the Public Schools," and conducted an evaluation of a voluntary busing program in Boston.

Dr. Armor received his Ph.D. in Sociology at Harvard University in 1965, which he entered as a Woodrow Wilson Fellow. He received his B.A. in Mathematics and Sociology at the University of California, Berkeley, where he also served as student body president and earned highest honors in Sociology.

STATEMENT OF DAVID ARMOR[1]

Mr. Chairman and Members of the Committee:

I would like to thank you for the opportunity to express my views on the critical issue of school desegregation and the problem of white flight.

I want to emphasize that the real issue before you is not school desegregation itself. Virtually the entire Congress and significant majorities of American citizens of all races favor integrated schools today. Rather, the real issue is mandatory busing, or the forced reassignment of children to schools outside their neighborhoods. The school desegregation issue would not be controversial today if the courts had not ordered mandatory busing as a remedy for school segregation.

Proponents of mandatory busing, including many federal judges, rest their case on two fallacious arguments. First, they argue that school desegregation cannot be accomplished by voluntary means, and therefore coercive methods must be used. Second, they argue that opposition to mandatory busing is really thinly-disguised opposition to school desegregation itself, motivated by racial prejudice. Therefore, opposition to busing--and the white flight that goes with it--should be ignored when designing desegregation plans. Busing advocates also believe that if a lot of courts order a lot of busing over a long period, public opposition and white flight will fade away, and cross-town busing will become the accepted norm.

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[1] This statement is not prepared in connection with a Rand contract or grant; the views expressed herein are the author's own, and are not necessarily shared by Rand or its research sponsors.

The facts contradict these arguments. White flight caused by mandatory busing has been so severe in many cities that less desegregation is attained compared to what voluntary methods could have attained. True, mandatory busing usually produces greater short-term integration than voluntary methods. But over the long run white flight from mandatory busing outweighs the short-term gains; the result is accelerated white loss and decreasing interracial contact. Moreover, the resegregation caused by busing is more intractable than the initial segregation: mandatory busing causes segregation between cities and suburbs and between public and private schools.

A good example of white flight and resegregation has occurred in Los Angeles. Mandatory busing started in 1978, was expanded in 1980, and was finally stopped in the Spring of 1981. Of the 20,000 white students assigned to busing in 1978, an incredible 60 percent never showed up at their receiving school. As a result, most of the minority schools in the plan received small numbers of white students and remained segregated.

In 1980 the mandatory plan was expanded to include more schools and more grade levels, although busing distances were reduced considerably. Among schools and grade levels not in the earlier plan the white no-show rate was 50 percent, in spite of the fact that mandatory busing had been going on for 2 years previously. Again, most minority schools in the plan remained segregated. Most of the desegregation resulted from minority students attending white schools, which could have been accomplished by voluntary means.

A high price was paid for the token increase in integration at minority schools. Between 1976 (the year before the first court order) and 1980 Los Angeles lost nearly 100,000 white students, declining from 37 percent white to 24 percent white. About half of this loss can be attributed directly to busing, which means busing literally doubled the natural rate of white loss.[2] White flight led to a boom in private schools, which experienced a massive increase of 20,000 white students during this period. In other words, nearly half of those fleeing busing did so by entering private schools. As a result, private schools in Los Angeles now enroll about 43 percent of all white school children, up from 23 percent before busing.

Los Angeles is not an isolated example. Similar white flight and resegregation have been documented in other cities with extensive mandatory busing.[3] Examples are Boston, Denver, Detroit, Pasadena, San Francisco, Dallas, Oklahoma City, Memphis, Chattanooga, Birmingham, Dayton, Omaha, and Seattle. Between 30 to 70 percent of the white losses in these cities is flight from busing; the average is about 50 percent. Over the long run, then, mandatory busing doubles the natural rate of white decline in central city school districts.

Since the courts have allowed so few voluntary plans over long periods, it is hard to compare the success of mandatory and voluntary plans. In those cities that have implemented comprehensive voluntary plans such as San Diego, San Bernadino, and, prior to mandatory busing, Milwaukee and Los Angeles, white flight has been minimal.[4] Although the short-term results of voluntary desegregation are not as dramatic, over the long run a greater degree of meaningful desegregation is accomplished by retaining the white student population. San Diego's progress under voluntary methods is especially impressive. Although it started with about the same percent white as Boston and Denver, today San Diego actually has more interracial contact than produced by the famous mandatory plans in Boston and Denver.

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[2] The other half is due to natural demographic factors such as declining white births.

[3] See David J. Armor, "White Flight and the Future of School Desegregation," in Stephan and Fegan, School Desegregation, Plenum, 1980.

The courts might have paid more attention to white flight if they had not accepted the second fallacy of the pro-busing argument: that anti-busing sentiments reflect racial prejudice rather than parental concerns about education. This fallacy has been abetted by several social science studies that equate busing opposition with "symbolic" racism. The term "symbolic" means that you may not think you oppose busing for racial reasons, but social science experts know you do![5]

I am not saying that racial prejudice plays no role in the busing controversy, only that it is not as important as other factors in today's environment. The fact is that racial prejudice and opposition to desegregation have declined significantly among whites in the past 20 years, while their near-unanimous opposition to busing remains virtually unchanged up to the present day.

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[4] Some anticipatory white flight has occurred in these cities due to expected court actions.

[5] McConahay, J. B. and W. P. Hawley, "Is it buses or the blacks?" Department of Sociology, Duke University, 1977; Sears, D. O. et al. "Opposition to 'Busing': Self interest or Symbolic Racism," Department of Psychology, University of California at L.A., 1976.

The accompanying figure summarizes some Gallup Poll results on this point. In 1958 half of the white parents polled would not send their children to desegregated schools; less than one fourth felt that way by 1980. But opposition to busing for racial balance has been very strong since its inception in 1970, with 80 percent of whites opposing it in 1980.

There is considerable behavioral evidence consistent with these national attitudes. Numerous case studies have shown that transfer of minority students into white schools does not cause significant white loss.[6] If racial prejudice is the main cause of white flight, then it should occur after any contact with minority students, not just when whites are transported to another school.

A special Los Angeles study suggests strongly that educational, not racial, reasons explain most of the opposition to mandatory busing for both white and minority parents.[7] Most white parents perceive minority schools across town as no better than their own neighborhood school. Moreover, they cite problems of safety, loss of time, loss of proximity, and loss of freedom when their children are transported across town to another school not of their choice. Therefore, white parents see busing plans as extracting high personal costs while offering no educational benefit for their children. Many feel strongly enough about these issues to withdraw their children from a district that implements mandatory busing.

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[6] Rossell, C. H. "Assessing the Unintended Impacts of Public Policy: School Desegregation and Resegregation," Boston University, 1976; Armor, D. J., "Segregation and Desegregation in the San Diego Schools," The Rand Corporation, 1976.

[7] Armor, D. J., 1980, op. cit.

On the other hand, most black parents perceive white schools as better than their own school, and they are willing to put up with the inconvenience of busing to get the perceived educational benefit. The perception that white schools are better than black schools is probably incorrect, but it is no less important in explaining black support of school busing.[8] Like white parents, those black parents in Los Angeles who do not see educational benefits arising from desegregation are likely to oppose mandatory busing.

So far I have been talking about the white flight problem in central city school districts; this raises the issue of metropolitan plans. I agree that metropolitan mandatory busing can reduce the degree of white flight. By including suburban districts, a metropolitan plan eliminates one of the two major options for fleeing parents. However, it is not true that white flight disappears. In Wilmington, Delaware, Louisville, Kentucky and many county-wide school districts in the South there has been white flight from busing, particularly in the first year. The losses tend to be smaller, however, and they do not last as long. Therefore, resegregation is less likely in metropolitan plans.

This does not mean that metropolitan busing is a realistic policy. The public is likely to oppose metropolitan busing more strongly than within-city busing because the loss of local control, greater travel distances, and stronger ties with the local community. It is highly unlikely that any legislature will adopt mandatory metropolitan plans in

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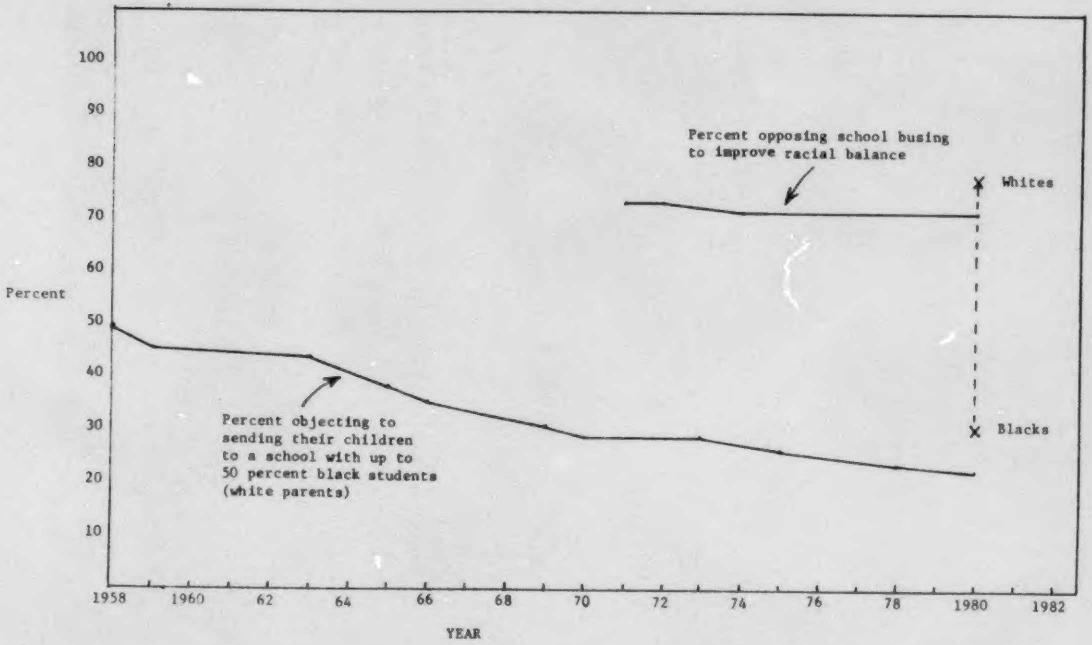
[8] In Los Angeles, per capita expenditures are higher in most minority schools than most white schools; this is true in many cities with large minority enrollments.

NATIONAL ATTITUDES ON SCHOOL DESEGREGATION AND BUSING



SOURCE: The Gallup Report, No. 185, Princeton, N.J., February 1981.

the face of this oppostion. In addition, the courts are not likely to order metropolitan plans except in isolated instances such as Wilmington. Supreme Court rulings in Richmond, Va., Detroit, and in the recent Atlanta cases show there is no legal basis for court-ordered metropolitan desegregation in the vast majority of cities. Therefore, mandatory busing is not a feasible policy option, whether it is carried out within a single city or on a metropolitan basis.

The only viable policy at the present time is to encourage desegregation through voluntary methods, using voluntary metropolitan plans in those school districts with high proportions of minority students. Unfortunately, most courts have not yet recognized the failure of mandatory busing and the promising potential of voluntary plans. Mandatory busing has been ordered recently in Columbus and Cleveland, Ohio, and in St. Louis, Missouri; and busing cases are still pending in Chicago, Cincinnati, and Kansas City to name but a few cities.

One notable exception to this trend has taken place recently in Los Angeles, where the state courts have ended the disastrous mandatory busing I mentioned earlier. In approving an all-voluntary plan for Los Angeles, a state judge said recently:

> "The time has come for common sense to return to the treatment of desegregation in the public schools."[9]

I can think of no better advise to the Congress today.

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[9] Judge R. B. Lopez, "Order re Final Approval of School Board Desegregation Plans," Crawford vs. Board of Education of the City of Los Angeles, September 10, 1981.

Dr. **ARMOR**. Thank you, Mr. Chairman. I would like to thank you for the opportunity to be here today to express my views on the very critical issue of school desegregation and the problem of white flight.

I think the real issue before the Congress is not the desegregation itself. I think it's safe to say virtually the entire Congress and an overwhelming majority of American citizens of all races favor integrated schools today. The real issue is mandatory busing, which is the term we use to describe the forced reassignment of children to schools outside their neighborhoods.

The school desegregation issue would not be controversial today if the courts had not ordered mandatory busing as the primary remedy for ending segregation. I think the proponents of mandatory busing, including many Federal judges, have rested their cases on two fallacious arguments. First, they argue that school desegregation cannot be accomplished by voluntary means; therefore, we have to use coercive methods.

Second, they argue that opposition to mandatory busing is really thinly disguised opposition to school desegregation itself, motivated by racial prejudice.

Therefore, so the argument goes, opposition to busing and the white flight that goes with it should be ignored when designing desegregation plans.

Busing advocates also believe that if a lot of courts order a lot of busing over a long period, public opposition and white flight will fade away and cross-town busing will become the accepted norm.

The facts contradict these arguments. The white flight caused by mandatory busing has been so severe in many cities that less desegregation is attained compared to what voluntary methods could have attained.

True, mandatory busing produces greater short-term integration than voluntary methods, but over the long run, white flight from mandatory busing outweighs the short-term gains; the result is accelerated white loss and decreasing interracial contact. Moreover, the resegregation caused by busing is more intractable, and I think more harmful, than the initial segregation that existed within the cities, because mandatory busing causes segregation between the cities and the suburbs and especially, recently, between public and private schools.

A good example of white flight and resegregation has occurred in Los Angeles. Mandatory busing started in 1978 and was expanded in 1980. It was finally stopped in the spring of 1981. Of the 20,000 white students assigned to busing in 1978, an incredible 60 percent never showed up at their assigned school. As a result, most of the minority schools in the plan received small numbers of white students and remained segregated, far short of the projected enrollments made by the planners.

In 1980, in spite of this massive white flight in 1978, which continued, the mandatory plan was expanded to include more schools and more grade levels, although busing distances were reduced considerably. Among schools and grade levels that weren't in the plan in 1978, the no-show rate was 50 percent, in spite of the fact that mandatory busing had existed in Los Angeles for 2 years prior to 1980. Again, most minority schools in the plan remained segregated. Most of the desegregation that was accomplished was by minority students who attended white schools. This could have been attained or accomplished by voluntary means without the necessity of mandatory busing.

A very high price was paid in Los Angeles for this token increase in integration at the minority schools. Between 1976 and 1980, Los Angeles lost 100,000 white students, declining from 37 percent white to 24 percent white. About half of this loss can be attributed directly to busing, which means busing literally doubled the natural rate of white loss.

White flight led to a boom in private schools which experienced a massive increase of 20,000 white students in this period. As a result, private schools in Los Angeles now enroll nearly half of all white schoolchildren, up from less than one-fourth before busing began.

Los Angeles is not an isolated example. Similar white flight and resegregation have been documented in other cities that have had extensive mandatory busing plans. Examples are Boston, Denver, Detroit, Pasadena, San Francisco, Dallas, Oklahoma City, Memphis, Chattanooga, Birmingham, Dayton, Omaha, and Seattle. Virtually no part of the country has been spared the effects of white flight from the mandatory busing. Between 30 to 70 percent of all white losses in those cities is flight from busing, and the average is about 50 percent.

So in other words, over the long run in these central city school districts, mandatory busing doubled the rate of white decline.

It's very hard to compare the success of the mandatory and the voluntary plans. And of course, the courts have allowed so few voluntary plans to exist over a long enough period to evaluate them. Those cities that have implemented comprehensive voluntary plans, such as San Diego or San Bernardino, and prior to mandatory busing, Milwaukee and Los Angeles, white flight has been minimal.

Although the short-term results of voluntary desegregation are not as dramatic as what we get from mandatory plans, over the long run a greater degree of meaningful desegregation is accomplished by retaining the white student population.

San Diego's progress under voluntary methods is especially impressive, and San Diego should really be a guide to other cities in the country and hopefully to the courts. Although it started with about the same percent white as Boston and Denver, today San Diego actually has more interracial contact than produced by the famous mandatory busing plans in Boston and Denver.

I think the courts might have paid more attention to white flight, if they had not accepted the second fallacy of the probusing argument—that is, that antibusing sentiments reflect racial prejudice rather than legitimate educational concerns. This fallacy has been reinforced by several social science studies that equate busing opposition with what they call "symbolic racism." The term "symbolic" is one of those terms used by social scientists. It means that you may know you don't oppose busing for racial reasons, but social scientists experts know that you do!

I am not saying that racial prejudice plays no role in the busing controversy. What I am saying is that it is not as important as other factors in today's environment and is a vastly overrated factor. The fact is that racial prejudice and opposition to desegregation have declined significantly among whites in the past 20 years, while they remained near unanimous in their opposition to mandatory busing.

I have prepared a figure in my statement which summarizes a recent Gallup poll which shows long-term trends and attitudes toward school desegregation and busing. In 1958, nearly half of the white parents surveyed opposed sending their children to desegregated schools. By 1980, this opposition had declined to less than one-fourth of white parents polled. But since busing began in 1970, the opposition of communities as a whole and particularly of whites has remained very strong up to the present time, in spite of 10 years of experience, perhaps because of 10 years of experience. In 1980, 80 percent of the white population opposed mandatory busing for desegregation.

There is considerable behavioral evidence consistent with these national attitudes. Numerous case studies have shown that the transfer of minority students into white schools does not cause significant white loss. If racial prejudice is the main cause of white flight, then it should occur after any contact with minority students, not just when white students are bused out of their neighborhood schools.

A special study that I conducted in Los Angeles suggests strongly that educational, not racial, reasons explain most of the opposition to mandatory busing for both white and minority parents. Most white parents perceive minority schools across town as no better than their own neighborhood schools. Moreover, they cite problems of safety, loss of time, loss of proximity, and loss of freedom when their children are transported across town to a school not of their choosing. Therefore, white parents see busing plans as extracting high personal costs while offering no educational benefit for their children. Many feel strongly enough about these issues to withdraw their children from a district that implements mandatory busing, as we have seen in Los Angeles.

On the other hand, most black parents perceive white schools as better than their old school and they are willing to put up with the personal inconvenience of busing to get the perceived educational benefit. The perception that white schools are better than black schools is probably incorrect, at least if we refer to things like per capita expenditures, which in Los Angeles is higher in minority schools than in white schools. But obviously, the perception is no less important in explaining black support for school busing, even though it may be an incorrect perception. Like white parents, those black parents in Los Angeles who do not see educational benefits arising from desegregation are likely to oppose mandatory busing or at least be substantially less in favor of it.

I think, by the way, that it's time that we tried to convince black parents that that perception is incorrect and in particular, I think, recent educational theories favor the explanation that if we are going to increase achievement of minority students, we need to increase the time spent in the classroom on educational tasks.

It's very hard for me to see how anybody can advocate that busing increases achievement, when what we are doing is taking more time out of the educational process instead of adding to it.

Up to this point I have been talking about white flight problems in central school districts, and this raises the issue of metropolitan plans. I do agree with my colleague, Dr. Pearce, that metropolitan mandatory busing can reduce the degree of white flight. By including suburban districts, a metropolitan plan eliminates one of the two major options for parents who want to flee, but it's not true that white flight disappears. In Wilmington, Del., Louisville, Ky., and many countywide school districts in the South, there has been white flight from busing, especially in the first year. The losses tend to be smaller, however, and they do not last as long. Therefore, desegregation is less likely in metropolitan plans.

But I disagree very strongly with my social scientist colleagues that metropolitan busing is a realistic policy option. The public will oppose metropolitan busing even more strongly than within-city busing, because of the loss of local control, greater travel distances, and stronger ties and identification of parents with their own community.

It is highly unlikely that any legislature—Congress or State—will adopt a mandatory metropolitan plan in the face of this opposition, which shows no sign of declining. In addition, the courts are not as likely to order metropolitan plans except in isolated instances such as Wilmington. Supreme Court rulings in Richmond, Va., Detroit and especially in the recent Atlanta cases show there is no legal basis for court-ordered metropolitan desegregation in the vast majority of cities.

The Atlanta case bears close inspections because it is one of the most recent. If there is no basis for metropolitan mandatory busing in Atlanta, I would submit it is very unlikely that metropolitan mandatory busing can be ordered anywhere else.

My conclusion, therefore, is that mandatory busing is not feasible either on a within-city basis or on a metropolitan basis. The only viable policy at the present in my opinion is to encourage desegregation through voluntary methods, using such techniques as open-end enrollments and magnet schools. Unfortunately, most courts have not yet recognized the failure of mandatory busing and the promising potential of voluntary plans. Mandatory busing has been ordered recently not only in Los Angeles but also in Columbus and Cleveland, Ohio, and in St. Louis, Mo., very recently.

Busing cases are still pending in Chicago, Cincinnati, Kansas City, to name but a few where more busing might be ordered. A notable exception to this trend is taking place in Los Angeles, as I mentioned, where the State courts have ended the very disastrous mandatory busing plan there.

I don't have the final statistics which I think I should report to the committee, but the very encouraging enrollment data that was collected in Los Angeles this week shows that there is a 10 percent white enrollment in the schools that were included in the busing plan last year.

For those who do not believe in white flight, I think it is important to recognize that in the first major city to stop mandatory busing, there has been a significant increase in white enrollment in the schools that were being bused before.

Let me close on a note from a State judge who a few weeks ago finally approved an all-voluntary plan for Los Angeles. In his opinion the judge said "The time has come for commonsense to return to the treatment of desegregation in the public schools."

I can think of no better advice to the Congress today.

Thank you very much.

Mr. **Edwards**. Thank you very much, Dr. Armor.

We're now going to hear from Professor Rossell.

CHRISTINE H. ROSSELL, POLITICAL SCIENCE DEPARTMENT, BOSTON UNIVERSITY

UNDERSTANDING WHITE FLIGHT AND DOING SOMETHING ABOUT IT

WHAT IS WHITE FLIGHT?

The term "white flight" was originally used to characterize the phenomenon of middle class, white suburbanization that has occurred since the 1950's, mostly because of "pull" factors—the greater suburban space, greenery, and (until recently) lower cost family housing, lower tax rates, federal housing loan policies, and changes in production and transportation patterns. More recently, and erroneously, the term white flight has been used to describe the decline in central city white public school enrollment. Most of this decline is a function of the secular suburbanization trend discussed above and the declining birth rate which has affected all races, although whites the greatest.

Because of these factors, we can expect most northern central city school districts to have a "normal" (i.e. with no desegregation) percentage public school white enrollment decline of at least 4 to 8 percent annually, and most northern suburban school districts to have an annual public school white enrollment decline of about 2 to 4 percent. Some southern countrywide school districts, because they benefit from northern migration to the South have stable or increasing white enrollment, in spite of the national decline in birth rates.

In terms of racial percentages, national data indicates that the proportion white is declining in the public schools of the suburbs as well as the cities. The decline for cities is about 2 percentage points annually and for suburbs less than 1 percentage point. Both public and private schools have a declining proportion white. Indeed, from 1968-78, the proportion white in the public school system declined less than in the private school system.

THE MAGNITUDE OF WHITE FLIGHT FROM DESEGREGATION

Determining the decline in white public school enrollment resulting from school desegregation requires isolating the impact of policy from these long-term demographic trends. The analytical question is: in any given school district, how much does school desegregation accelerate the already declining white enrollment?

Virtually all of the research on school desegregation and white flight indicates that school desegregation significantly accelerates white flight in most school districts in the year of implementation, and the magnitude is a function of three factors: the white proportion enrollment in the district, the proportion of white reassigned to formerly black schools, and the proportion of blacks reassigned to formerly white schools. The first two factors are the most important. The effect of black reassignments on white flight is one-third to one-half the effect of white reassignments to formerly black schools.

It is estimated that—on the average—for every 20 percent of white reassigned to formerly black schools in city school districts, the percentage white enrollment decline will increase in that year by an additional 9.6 percentage points over the predesegregation annually percentage white enrollment decline in districts with over 35 percent black enrollment.

Most of the comparative, aggregate annalyses of the effect of desegregation on white enrollment are unable to separate white flight characterized by the transfer of students to private schools from that characterized by the movement of families outside the district. Case studies indicate, however, that most of the white flight is to private schools rather than to the suburbs, although the proportion moving increases the smaller the geographical size of the school district.

FACTORS AFFECTING THE EXTENT OF WHITE FLIGHT

The research to date indicates the following factors increase white flight:

1. The reassignment of whites to formerly black schools;
2. The extent of protest and negative media coverage;
3. The reassignment of whites to older, larger formerly black schools;
4. A greater than 35 percent black population;
5. Phasing-in a plan over a period of several years;
6. Having a small, geographic boundary encompassing only the central city;
7. Elementary school desegregation (although it is the most successful educationally and in terms of race relations in the classroom);
8. Long busing distances in city (not metropolitan) school districts.

THE LONG-TERM IMPACT OF SCHOOL DESEGREGATION ON WHITE ENROLLMENT

The implementation year white flight is the single greatest annual loss of whites a school district will experience. After that, the annual loss rate declines rapidly. Suburban and countryside school districts may actually make up their implementation year loss by the fourth or fifth year. Central city school districts, however, are unlikely to make up the implementation year loss. They will either return to the "normal" decline, or have continuing, although smaller in magnitude, annual white flight.

POLICY OPTIONS FOR LOCAL SCHOOL DISTRICTS AND COURTS

1. *Voluntary Plans.*—Voluntary plans do have less white flight, but for school districts above 30 percent minority enrollment, they produce less school desegregation than a mandatory plan.

2. *Mandatory Plans With a Voluntary Magnet School Component.*—One potentially effective option is a desegregation plan with a two-stage reassignment process. The first stage is voluntary and includes the creation of magnet school programs over a four or five month period in the preimplementation year. All magnet schools should be built in minority neighborhoods. Badly deteriorating, and the most isolated, black schools should be closed in favor of maintaining schools near the boundaries of black and white neighborhoods.

The first stage of the reassignment process would then begin with the magnet school reassignment. The evidence suggests there are enough white parents who are willing to put their children in schools in black neighborhoods to racially balance them, if these schools are publicized as superior schools and if the alternative is mandatory reassignment to another desegregated school chosen by the school administration. It is important this be done on an individual basis rather than a school basis as was done in Los Angeles. When schools are asked to volunteer, rather than individuals, any given school can have enough parents who oppose this action, and as a result withdraw their children, to effectively sabotage any chance of racial balance. After white parents are asked to volunteer, any remaining empty seats will be filled by mandatory reassignment.

3. *Curriculum.*—To reduce the perceived costs of school desegregation, magnet schools should be made a part of any mandatory desegregation plan, and college preparatory courses offered in all schools. In addition, research indicates the greatest achievement gains and most interracial contact occurs when classrooms are reorganized into cooperative teams which compete against each other. Rising achievement and positive interracial contact should minimize any long-term white flight.

4. *Providing Incentives for Housing Desegregation.*—Desegregation plans should exclude residentially integrated neighborhoods from cross-town busing in order to five families an incentive for living in integrated neighborhoods.

5. *Public Information.*—Since the greatest white flight occurs in most districts in the year of implementation, those who have fled are people who have never experienced school desegregation. They obtain their information on the negative aspects of it from the media which tends to publicize white flight, protest, and interracial conflict. Since negative media coverage increases white flight, a media specialist should be employed to give the media positive stories about school desegregation before and after implementation.

FEDERAL AND STATE POLICY OPTIONS

1. The federal government should provide matching funds to states specifically for interdistrict transfer programs.

2. HUD should initiate a program to use Section 8 housing opportunities to residentially integrate school districts in order to minimize busing.

3. The federal government should provide financial incentives to individuals who live in desegregated neighborhoods or send their children to desegregated schools by a) giving them tax credits, b) guaranteeing the fair market value of their home if they live in an integrated neighborhood or send their child to a desegregated school for at least three years, or c) giving them a tuition voucher to add to their school's budget.

4. The federal and state government should subsidize smaller classrooms and schools.

5. The federal and state governments should require all schools that receive any kind of subsidy to publish information on school characteristics and individual student progress. Although the latest Coleman report claims to have proved private schools produce better cognitive outcomes than public schools, and most parents believe this, there is actually no evidence to date to support this. Moreover, most research indicates that public schools have facilities, curriculum, and faculty which are superior to those of the average private school.

THE COST OF WHITE FLIGHT

The cost of white flight in terms of the reduction in interracial contact (defined as the proportion white in the average black child's school) can easily be estimated. Mandatory desegregation plans, particularly in school districts above 35 percent, yield a greater proportion white in the average black child's school than voluntary plans although these plans and these districts have greater white flight. Even school districts such as Boston which have experienced massive white flight have a proportion white in the average black child's school which is almost twice as great as it would have been if the school district had not desegregated.

Ms. ROSSELL. Thank you, Mr. Chairman, members of the committee, for inviting me to summarize my research and that of others on the question of the relationship of school desegregation of white flight and what we can do about it.

My purpose today is to discuss what white flight is, what causes it and what we can do about it, in somewhat more detail than my two colleagues.

The term "white flight" was originally used to characterize the phenomenon of middle class, white suburbanization that has occurred since the 1950's, mostly because of "pull" factors—the greater suburban space, greenery, and until recently lower cost family housing, lower tax rates, Federal housing loan policies, and changes in production and transportation patterns. More recently and erroneously, the term "white flight" has been used to describe the decline in central city white public school enrollment. Most of this decline is a function of the secular suburbanization trend discussed above and the declining birth rate which has affected all races, although whites the greatest.

Because of these factors, we can expect most northern central city school districts to have a "normal," that is, with no segregation, percentage public school white enrollment decline of at least 4 to 8 percent annually, and that means even if they don't desegregate, and most northern suburban school districts to have an annual public school white enrollment decline of about 2 to 4 percent, again, even if they don't desegregate.

Some Southern countywide school districts, because they benefit from Northern migration to the South have stable or increasing white enrollment, in spite of the national decline in birth rates.

In terms of racial percentages, national data indicates that the proportion white is declining in the public schools of the suburbs as well as the cities. The decline for cities is about 2 percentage points annually and for suburbs less than 1 percentage point. Both public and private schools have a declining proportion white. Indeed, from 1968 to 1978, the proportion white in the public school system declined less than in the private school system.

THE MAGNITUDE OF WHITE FLIGHT FROM DESEGREGATION

Determining the decline in white public school enrollment resulting from school desegregation requires isolating the impact of policy from these long-term demographic trends. That's something that most commentators forget to do.

The analytical question is: In any given school district, how much does school desegregation accelerate the already declining white enrollment?

Virtually all of the research on school desegregtion and white flight indictates that school desegregation significantly accelerates white flight in most school districts in the year of implementation, and the magnitude is a function of three factors: the white proportion enrollment in the district, the proportion of whites reassigned to formerly black schools, and the proportion of blacks reassigned to formerly white schools. The first two factors are the most important. The effect of black reassignments on white flight is one-third to one-half the effect of white reassignments to formerly black schools.

It is estimated that—on the average—for every 20 percent of whites reassigned to formerly black schools in city school districts, the percentage white enrollment decline will increase in that year by an additional 9.6 percentage points over the predesegregation annual percentage white enrollment decline in school districts with over 35 percent black enrollment.

Most of the comparative, aggregate analyses of the effect of desegregation on white enrollment are unable to separate white flight characterized by the transfer of students to private schools from that characterized by the movement of families outside the district. Case studies indicate, however, that most of the white flight is to private schools rather than to the suburbs, although the proportion moving increases the smaller the geographical size of the school district.

The research to date indicates the following factors increase white flight:

The reassignment of whites to formerly black schools; the extent of protest and negative media coverage; the reassignment of whites to older, larger formerly black schools.

A greater than 35 percent black population; phasing-in a plan over a period of several years; having a small, geographic boundary encompassing only the central city.

Elementary school desegregation, although it is the most successful educationally and in terms of race relations in the classroom.

Longbusing distances in city, not metropolitan, school districts.

The implementation year white flight is the single greatest annual loss of whites a school district will experience. After that, the annual loss rate declines rapidly. Suburban and countywide school districts may actually make up their implementation year loss by the fourth or fifth year. Central city school districts, however, are unlikely to make up the implementation year loss. They will either return to the "normal" decline, or have continuing, although smaller in magnitude, annual white flight.

Now, I have suggested some policy options for local school districts and courts. One policy option is a voluntary plan. Voluntary plans do have less white flight, but for school districts above 30 percent minority enrollment, they produce less school desegregation than a mandatory plan.

One potentially effective option is a desegregation plan with a two-stage reassignment process. The first stage is voluntary and includes the creation of magnet school programs over a 4- or 5-month period in the preimplementation year. All magnet schools should be built in minority neighborhoods. Badly deteriorating, and the most isolated, black schools should be closed in favor of maintaining schools near the boundaries of black and white neighborhoods.

The first stage of the reassignment process would then begin with the magnet school reassignment. The evidence suggests there are enough white parents who are willing to put their children in schools in black neighborhoods to racially balance them, if—and this is very critical—if these schools are publicized as superior schools and if—again, this is very critical—the alternative is mandatory reassignment to another desegregated school chosen by the school administration. It is important this be done on an individual basis rather than a school basis as was done in Los Angeles. When schools are asked to volunteer, rather than individuals, any given school can have enough parents who oppose this action, and as a result withdraw their children, to effectively sabotage any chance of racial balance. After white parents are asked to volunteer, any remaining empty seats in schools in black neighborhoods will be filled by mandatory reassignment.

To reduce the perceived costs of school desegregation, magnet schools should be made a part of any mandatory desegregation plan, and college preparatory courses offered in all schools. In addition, research indicates the greatest achievement gains and most interracial contact occurs when classrooms are reorganized into cooperative teams which compete against each other. Rising achievement and positive interracial contact should minimize any long-term white flight.

PROVIDING INCENTIVES FOR HOUSING DESEGREGATION

Desegregation plans should exclude residentially integrated neighborhoods from cross-town busing in order to give families an incentive for living in integrated neighborhoods. In addition, any individual who moves into a neighborhood in which their race is in a minority, should have the option of being excluded from cross-town busing, thereby encouraging individuals to do it, even though their presence may not make the neighborhood instantly integrated.

There is also a problem of public information. Since the greatest white flight occurs in most districts in the year of implementation, those who have fled are people who have never experienced school desegregation. They obtain their information on the negative aspects of it from the media which tends to publicize white flight, protest, and interracial conflict. Since negative media coverage increases white flight, a media specialist should be employed to give the media positive stories about school desegregation before and after implementation.

I have also suggested here some Federal and State policy options, some of which may be unrealistic under the current administration and in the current political climate, but I am going to suggest them anyway.

First, the Federal Government should provide matching funds to States specifically for interdistrict transfer programs.

HUD should initiate a program to use section 8 housing opportunities to residentially integrate school districts in order to minimize busing.

The Federal Government should provide financial incentives to individuals who live in desegregated neighborhoods or send their children to desegregated schools by (a) giving them tax credits—I see no reason why people who spend a lot of time and energy in building social growth shouldn't get a tax break the same way people who spend a lot of time and energy and money building economic growth get a tax credit; (b) guaranteeing the fair market value of their home if they live in an integrated neighborhood or send their child to a desegregated school for at least 3 years, or (c) giving them a tuition voucher to add to their school's budget, if it is an integrated school, because many people believe money adds up to quality education.

The Federal and State Governments should require all schools that receive any kind of subsidy to publish information on school characteristics and individual student progress. That is almost never done. Most information is publicized on school progress, and that is a completely different and misleading piece of information.

Although the latest Coleman report on public and private schools claims to have proved private schools produce better cognitive outcomes than public schools, and most parents believe this, there is actually no evidence to date to support this. Moreover, most research indicates that public schools have facilities, curriculums, and faculty which are superior to those of the average private school.

Now, most people want to know what is the cost of white flight. The cost of white flight in terms of the reduction in interracial contact, defined as the proportion of white in the average black child's school, can easily be estimated. Mandatory desegregation plans, particularly in school districts above 35-percent black, yield a greater proportion white in the average black child's school than voluntary plans, although these plans and these districts have greater white flight. Even school districts such as Boston which have experienced massive white flight have a proportion of white in the average black child's school which is almost twice as great as it would have been if the school district had not desegregated.

Mr. EDWARDS. Thank you very much, Dr. Rossell. The gentleman from Illinois, Mr. Hyde.

Mr. HYDE. Well, thank you very much, Mr. Chairman. As we plunge further into this controversy, it gets more and more interesting and difficult, because we get different stories from equally highly qualified people.

Dr. Armor, I am interested in a study that recently came out of Vanderbilt. It said that school integration was helpful to the black child and didn't harm the white child, I believe. Have you got a better synopsis of what that study found?

Mr. **Armor**. I have not examined that report. By the way, I have been trying to get it, but it is going to take awhile. I just heard about it last week myself. But I believe that they're referring to one of the studies. There are several published studies on the achievement issue, and I suspect what they were referring to is that some researchers have found that there is overall some achievement gain from minority students in desegregated schools, while at the same time the white students do not lose any ground.

Mr. **Hyde**. Well, isn't that a laudable goal for the white students and their parents, that they don't lose any ground? Shouldn't they be seeking improvement too? I mean, shouldn't the goal be of every student to improve rather than not lose any ground?

Mr. **Armor**. I think that's true. I think, though, that in the public debate, there has been some concern among opponents that white students may lose ground in a desegregated educational system. There is no evidence for that. It may be that we should all be looking for gains, but I think the policy issue that has been debated most concerns the differential achievement patterns between white and minority students. So I think the policy issue is: How do we achieve—how do we increase minority student achievement while not sacrificing the much higher levels of achievement for white students?

Mr. **Hyde**. The problem with busing, say, in an urban area, as I see it—the objections we hear from parents—are there are great advantages to having your child attend the nearby school. In case of injury or illness, the parent can take care of him, not some nice person who will put a sign in the window. The child can participate in extracurricular activities; the parents can participate and inteface both with the teachers and with the school. The time spent on the bus being transported is lost time, essentially, and at some jeopardy. It's awfully hard to get records of accidents of school buses. It's real tough; nobody really keeps them. If you go State by State, you might find some, but nevertheless, in bad weather, heavy traffic, your child is at risk in a bus, going and coming.

Don't parents have a legitimate right to hope that they would maintain some control over their child at the school, some interaction with the teachers, and that their child can enjoy playing on the basketball team or being in the school play or something without the hour or half-hour or 40 minutes of travel back and forth on the bus?

In other words, the kids are disadvantaged. How do you weigh those advantages and disadvantages?

Mr. **Armor**. Well, you're very clearly saying all the things that I heard parents say in the surveys that I have done. White parents in particular—even minority parents will cite the same factors. And in fact, that is why most white parents oppose busing, for all those reasons. The difference is that white parents do not see any improved education for their child just by the mere fact of their being transported across town.

Some minority parents do see an advantage, because they see the white school as superior. But I think this is an incorrect perception.

Mr. HYDE. Just to latch on to what you said, perhaps if that perception could be corrected, that's if the adequacy or desirability of the education available to everybody, regardless of race or location, was more perceptive and more manifest, that might go somewhere toward helping solve this problem.

Mr. ARMOR. If black minority parents, particularly, because Hispanic minority parents and Asian minority parents do not favor mandatory busing much more than white parents, but black parents tend to be the primary group here, the group that believes, I think, in this misperception about what schools are better and worse. If they could be convinced that their schools were as good educationally as the white schools across town, I think a substantial majority of black parents would not favor busing for the very same reasons the white parents do not favor it now.

I would like to add on the Hawley study that the evidence on the benefits for minority students in busing programs, most of us at this table have seen those studies and we disagree on their meaning. I think there is no question that some studies have shown some gains, but those gains are very small, and on the average, other studies will show that it cancels out.

There is no overall significant benefit for minority children in being part of a busing program.

Mr. HYDE. See, that is the difficulty we have. These things don't lend themselves to definitive statistics.

Mr. ARMOR. Well, the problem is that as long as there are even only 10 studies that show a gain and 100 that show a loss, there will be many social scientists who will say, well, the 10 that showed the gain did it right. And what we have to do is replicate whatever programs those 10 schools have. But I think it's a misplaced energy and misplaced investment. I think that there really isn't any good theory that says simply being transported across town to a racially balanced school is going to help substantially the achievement process compared to what you could be doing with the same time and money spent in the school.

There is increasing, I think, consensus on the part of many educators that the key for minority students is time in a classroom, being able to create an environment where there is enough time to spend in study, increasing the amount of time that's now spent in minority schools.

I don't think that there is any final answer to it, but I think you will find many educators who believe we should put our energies into improving minority education in minority schools.

Mr. HYDE. Well, peripherally, we're talking about the quality of education available to every child in this country. I'd love to see all of the efforts of the Ph. D.'s who spend useful time on discussing the advantages and disadvantages of transportation to provide quality education spend half as much time—and I don't mean this critically either, because I am a minority of one, I'm sure on this—with what is really wrong education and the inability to get good teachers, to attract quality people to the teaching profession, give them advancement and get rid of the incompetence, not lock them in on tenure.

And we all know the arguments for and against. But you're never going to educate if you don't get teacher's like Marva Collins, I'm picking a genius, but I mean the people who are gifted as teachers. We should find those people and have a system which makes them available to black kids and white kids and Hispanic kids and everybody and homogenize them throughout the area. And I find all sorts of obstacles to achieving that. I find efforts to protect the teachers who are incompetent. I find this in junior colleges and colleges alike. It's very frustrating, and I feel very frustrated.

Mr. ARMOR. I think maybe we're going a bit beyond the desegregation issue itself.

Mr. HYDE. Sure.

Mr. ARMOR. But there is no question—and I part with my social scientist colleagues—that we really have misplaced the focus by getting off on mandatory busing which is so devisive and costly, it doesn't really gain things, in my opinion. It's never going to be accepted as a legitimate way to assign kids to school in this country, and I think that the sooner we get off that issue and get on with the issue of how to provide good education to all kids, all schools, regardless of their racial composition, that we will certainly do a favor to our public school system.

Mr. HYDE. It's a form of conscription that is resented. Now may I ask, and I appreciate what you have said, and I'd like, if you would be generous enough, for us to be able to send you data and other statements from other people, and maybe give us the benefits of your expert commentary on them from time to time.

Could we burden you with that?

Mr. ARMOR. I'd be very happy to.

Mr. HYDE. Thank you.

Professor Rossell, both public and private schools have a declining proportion white. Indeed, from 1968 to 1978, the proportion of white in the public school system declined less than the private school system. That surprises me, in view of what we have been hearing about—that's, I think, your first page, near the bottom, "The proportion white in the public school system declined less than in the private."

Less whites were staying in the public school system, less than were in the private school system.

Ms. ROSSELL. No, I am talking about the proportion white. What has happened is that the proportion white in the private school system has declined at a greater rate than the proportion white in the public system, even though it has been higher all this time. The reason why it has declined at a greater rate is because the proportion minority in the private school system has been growing tremendously since 1968.

Mr. HYDE. Why is that? Why have the minorities increased in the private school? Dissatisfaction about the public school system?

Ms. ROSSELL. I would say it's primarily dissatisfaction with the public school system. In addition, too, in some school districts we find black flight. For example, in Boston, we found black flight at the secondary level primarily from a few schools in which the blacks felt they were in danger if they were sent there.

Mr. Hyde. Are you talking about private schools or parochial schools as well?

Ms. Rossell. Yes, both.

Mr. Hyde. "Research indicates that public schools have facilities, curriculum and faculty which are superior to those of the average private school." That's on page 5. There are parochial schools in Chicago in the black community that you just can't get into. There's a waiting list at Our Lady of Angels, Father Collins' school. Just a couple of years wait to get in there.

If the public schools—we're talking average—have superior faculty, curriculum and facilities, why is there the increase proportionately in the private schools? Is this perception?

Ms. Rossell. It's perception. Most parents, both white and black, do not know what they mean by quality education. For example, most people would be surprised to learn that the Boston School District spends more per pupil than any other school district in the metropolitan area, including the wealthy school districts out in the suburbs, such as Newton. In addition, the Boston School District this year, and I believe last year also, when they started consolidating, has the smallest classroom teacher/pupil ratio and had teachers with more experience, more degrees, et cetera than any other system in the SMSA.

Now parents do not perceive that—they think, in fact, those suburban schools have better facilities and better curricula, and that's how they justify the fact that they believe the suburban schools—and private schools—give them a better education. They don't know what a better education is, or what they mean by that term, and so in the face of no other information, they think it must mean curriculum, quality of the faculty and the resources.

In fact, what they're really talking about is what they perceive to be the socioeconomic status of the students in the classroom and the degree of order in the classroom. That's why they're eager to get into the parochial schools in Chicago, even those that are black, because parents perceive those schools as having more discipline and more order.

Mr. Hyde. Which they can do, because they're not bound by some of the strictures the public schools must deal with. The parochial schools can kick a kid out if they want to, and the public school has a more difficult time doing that.

Ms. Rossell. That's right.

Mr. Hyde. Peripherally, would it help the quality of education for everybody, if more power were given to the public school authorities to get rid of disruptive kids, instead of having to keep them in as a disruptive force?

Ms. Rossell. Well, it depends on how you want to deal with those people. You can just shift the focus to another arena. Then you have to increase your police system or juvenile system.

Mr. Hyde. If you have 80 kids in a classroom and 75 of them want to learn and 5 of them need custody for the day, aren't you harming those 75 kids by rules and regulations that say all 80 have to stay in that classroom most of the time?

Ms. ROSSELL. Well, the tragedy is that most of the things that social scientists come up with as to how to reorganize classrooms so you can minimize the likelihood of having these kids hate school and becoming troublemakers, have not been adopted by educators. Most of the educators I talked to in the school districts that I have gone to around the country and interviewed in, have not the slightest idea of what the latest social science research shows. They think that you teach to a desegregated school or an inner-city school the same way you teach at any other school, and that is simply wrong.

Mr. HYDE. If students learn from each other, which is one selling point for integration, doesn't a private school have that advantage on balance over the public school, that the parents usually have the kids at the private school because there is sacrifice entailed in going to that private school, and they possess a motivational factor that is not always present, or as present, in the public school?

Ms. ROSSELL. Sure. But that's not because of anything that the private schools have done.

Mr. HYDE. I agree with you. It's something that the student at the private school brings to school that he can communicate through the other kids.

Ms. ROSSELL. Exactly. But it's not something the private schools have done. If we could figure out something that the private schools have done to get that order——

Mr. HYDE. Charging tuition.

Ms. ROSSELL. Well, charging tuition. That might do it.

Mr. HYDE. Well, the private schools are permitted to teach some religious values that the public schools cannot. Now that may not be a good reason to say that the private school is able to communicate more in terms of right and wrong and good behavior and bad behavior. But maybe that's what the private schools can do and the parochial schools can do that the public schools cannot.

Ms. ROSSELL. Yes. There's no solution, because if we put all the public school kids in private schools, the private schools will start to resemble the public schools.

Mr. HYDE. Sure. But if they operated on the private school's rules, they can do a little more.

Ms. ROSSELL. Then we have a large number of teenage kids out on the street and people clamoring to get them back in the school, because they'd be loitering on the street corners and probably be unemployed and people would be——

Mr. HYDE. Of course, if we lower the minimum wage, maybe we could put them all to work. But that's another problem.

Ms. ROSSELL. That's another problem.

Mr. HYDE. It is, indeed.

I certainly agree with your comments about the media, because, if there is one detriment toward smoothing integration in any community, it's the media which, of necessity, gravitate toward protest and conflict. I don't know how you ever solve that here. Your suggestion is a good one—a media specialist should be provided to give the media positive stories. I think that's a very good idea, and I would hope that school districts and mayors would take your advice. But the impact of the way you present something is very important and sometimes it can be very counterproductive.

So I agree with you, the rioting scares people, the protests, the hate on the faces that you seem to see in every bus.

Ms. **Rossell**. Which you see every night on TV.

Mr. **Hyde**. That's what I mean. That's the first thing you see and the last thing you see. And it's sad. But your idea is a good one, a media specialist to spoon feed the media on the good things as well as the bad.

Well, thank you very much.

Mr. **Edwards**. Ms. Cooper, do you have any questions?

Ms. **Cooper**. Dr. Pearce, how can we be sure that the survey you spoke of is not simply indicating that a neighborhood or community is in the middle of a transition from one race to another? In other words, that white flight is occurring.

Dr. **Pearce**. The measure I use is called the "index of dissimilarity" and ranges from zero to 100. One way of thinking of it is that it measures the percentage of one group that would have to move for every school in the system or block in the city to have the same racial composition as the city as a whole. The more segregated it is, the higher it is.

And so what it measures as you move down closer and closer to zero, is that the city as a whole—more and more of the city as a whole resembles racial composition—more and more neighborhoods resemble the racial composition of the city as a whole.

Ms. **Cooper**. Professor Rossell, do you want to comment?

Ms. **Rossell**. Yes. First of all, you can't tell from the index of dissimilarity whether or not white flight is occurring, because the index of dissimilarity is standardized and reflects the racial composition of the school districts, and if the proportion of white goes down, the index of dissimilarity will not reflect that as long as it's evenly balanced throughout a school district. What Dr. Pearce has done is to add data in our study indicating the change in proportion black over time in the school district. And the change in proportion black over time in the school district suggests that white flight does not account for the decrease in residential segregation that we see here, although I would suggest she also use another measure which is an unstandardized index of interracial contact.

But nevertheless, the fact that she did chart the change in proportion black over time, shows that little, if any, of what we see out there is the result of white flight or racial transition of a community.

Ms. **Cooper**. So in other words, is it also your conclusion that the residential integregation that you see in these communities is a more stable integration than in other communities?

Dr. **Pearce**. Yes, I would say so. In almost all communities the minority percentages are rising. as result of demographic changes occurring in our country. So to some extent it is relevant to that. But I do believe that the integration is genuine; recall that these measures are for the whole metropolitan area. For my "integration" to be really "racial transition," white flight would have to be outside the metropolitan area, not just suburbs or private schools. One of the indications that this is not white flight is the fact that neighborhoods have been able to be removed from the busing plans in these cities because they become residentially integrated.

Ms. **Cooper**. Do you think it's appropriate to consciously use school desegregation to effectuate housing desegregation?

Dr. **Pearce**. One of the interesting things about my study is that none of the school districts that I studied had done anything to try to maximize their plans, effect on people's housing choices or on housing patterns. I think even if the smallest amount of effort was made such as in Louisville as Dr. Rossell mentioned—even the smallest amount of effort can increase even more so the impact, and I think that since schools do affect people's housing choices they should pay attention to how they are doing that. One of the most important factors when people look for houses, are the schools.

They ask "what are the schools like?" "Are these schools I want to send my children to?"

I think it's very important for schools to take cognizance of the effect of their decisions and their policies and the effect that it is going to have on people's choices about housing, because this is going to influence the racial composition of the schools in a relatively short amount of time.

Ms. **Cooper**. So it's an unintended beneficial consequence that should be made conscious in order to maximize it?

Dr. **Pearce**. The choices can be made in ways that are very positive or very negative, with no cost involved in terms of the choice that the school officials have. With a little attention to this, I think a great deal of positive things can be done.

Mr. **Hyde**. May I just interrupt, because if we're going to bus kids to racially integrated schools, how does the neighborhood school have any impact on the neighborhood then, since that may not be where your child is going to go?

Dr. **Pearce**. Because people make choices on the basis of other things, other than the racial composition of the school located in the neighborhood. Apparently what is happening in these cities that I examined, these choices become less segregated in their impact. If you decide where to live on the basis of other things like closeness to work, people end up living in more racially integrated areas.

Another thing that happens is, when you're in a racial transitional neighborhood where you have school desegregation, the school system says we're going to keep that school racially balanced. The white family is considering moving out of that particular area and moving to a segregated white area. The children under that plan would then be bused to the schools, but if they stay in the neighborhood——

Mr. **Hyde**. They see no advantage to moving.

Dr. **Pearce**. They see no advantage to moving. So it helps to stabilize neighborhoods.

Mr. **Hyde**. Thank you.

Ms. **Cooper**. What would you say to Congressman Shumway's constituents who are complaining that they chose to move to a certain neighborhood and buy a new house because they wanted their children to go to a certain school which they conceived as a quality school? What would you tell those constituents?

Dr. **Pearce**. Everybody wants their children to attend a quality school, and everybody wants their children to have equality of educational opportunity, and I think that option should be open to everybody. I think what happens is, when one does desegregate schools, one disconnects the connection between where one goes to school and where one goes to housing, as the superintendent from Charlotte testified. And one of the things that I found in the survey of real estate brokers, when you desegregate the schools across a metropolitan area, the perception of schools as a whole changes. A great deal of attention is paid to what is going on in the schools in the process of desegregation, and in that process an effort is made to improve all the schools for all children.

Precisely, because one can't guarantee by where one is living, where one goes to school, one wants to make sure every child gets a good education, no matter where they live, or where they come from.

Ms. COOPER. Professor Rossell, how would you summarize the major ways in which your findings and conclusions differ from those of Dr. Armor's?

Ms. ROSSELL. Well, I think we agree on the major causes of white flight. I would say there is some disagreement in the following areas: First of all, the magnitude of the implementation year loss; second, whether or not the loss continues in years after the implementation years, and to what degree.

Further refinement of my own research has suggested that our disagreement is getting smaller and smaller, as I find that there is continuing white flight at many large urban school districts. So that perhaps the disagreement is only over the suburban and school districts smaller than the metropolitan school districts. In addition, we both have a problem in the sense that there simply is not enough information to compare voluntary desegregation plans with mandatory desegregation plans in terms of long-term net benefit; that is, in terms of increase in interracial contact.

I take the position that if we look simply at mandatory desegregation and the increase in interracial contact, in every school district that I have examined, it is much higher than if there had been no desegregation. Dr. Armor counters, well, what if there had been voluntary desegregation? Unfortunately, we just don't have enough data to compare the two. He argues that there would be more desegregation in a voluntary desegregation plan, even though in the implementation year, there is less integration.

But the fact that there is less white flight continuing on, he believes would eventually result in more interracial contact in voluntary plans. Both of us are indeed speculating on this to some extent, and our particular positions are a function, I think, of our ideological bias, because we really do not have enough data to say one way or the other, when comparing voluntary and mandatory on long-term benefits.

Ms. COOPER. Did you want to comment, Dr. Armor?

Mr. ARMOR. I agree with Professor Rossell by and large in terms of her summary of our differences. I think that the techniques that we are using are complicated. They rest on a variety of assumptions, and it's not surprising that two analysts will come up with somewhat different answers. I'm very encouraged that at this point in 1981, that her results and mine are very close together compared to where they were in 1975, when we both began publishing works on this topic.

One of the things to keep in mind about the trade off between mandatory and voluntary—and I think you can see this in cities like San Diego and in cities like Los Angeles which had a voluntary plan before mandatory and are continuing with one, I should emphasize—is that you do get an increase in white enrollment at minority schools under mandatory busing plans. I don't dispute that.

It's the magnitude of that increase that's of great concern compared to the white loss in the white schools. Remember if there's white flight, you're reducing white enrollment in white schools which offers less interracial contact over the long run in many of those schools for those minority students who come into the white schools. In Los Angeles, for example, some of the majority white schools over the 3-year period of busing, went from 500 or 600 white students to 100, and the demographics that I have done school by school show they should have at least 300 or 400 whites by now.

So on a voluntary basis, you might not have got as many white students across town to minority schools, but you would have had a much larger white resource from minority students who voluntarily come into those white schools. And this is the trade off—and it may be that we can't be definitive about it, but, like I say, the courts, which are more or less adjudicating the process, really haven't given voluntary a chance, and until they do, it will be very hard to be definitive. I just hope that the data we do have will encourage courts and the Congress to really push voluntary plans, because we certainly know mandatory plans, whatever the flight issue, are devisive and unpopular.

Ms. Cooper. One final question that I find troubling. There seems to be a consensus that white flight is at its minimum under a metropolitan desegregation plan. But as Dr. Armor pointed out, because of both State and Federal law at the present time as well as public resistance, it's unlikely that there are going to be that many more metropolitan plans implemented mandatorily anyway.

So what is the prognosis, Dr. Pearce?

Dr. Pearce. One of the things that can be done is that voluntary interdistrict plans can be developed, and I think those are important as a way of dealing with the fact that we indeed have very high minority enrollments in many large central city districts. The State of Wisconsin has provided incentives to school districts that have been quite effective involving minority students coming out to the suburban school districts, and I think the Federal Government could do that in a way that would be very positive in promoting interdistricts voluntary action. I also think there are a number of courts—the evidence is not entirely in—that courts are not going to order interdistrict remedies. For example, Indianapolis has just begun in a metropolitan desegregation plans.

I would also like to point out that there is some evidence on the effect of voluntary plans—voluntary desegregation plans-on the level of interracial contact and integration. Dr. Armor's own study shows that after several years in San Diego, the level of interracial contact is essentially unchanged from what it was before the voluntary plan was begun.

In other school districts he examined, with the exception of Pasadena, which is not really a city school district, being a suburb of Los Angeles, none of the cities ended up more segregated even with white flight. And as Dr. Rossell has said, in Boston as they were before the mandatory desegregation, which suggests that even with large amounts of white flight, we end up with higher levels of interracial contact and integration than we have before. Particularly in metropolitan plans, the differences are dramatic, and we should keep that in mind when we try to evaluate that issue.

There are also the freedom of choice plans which were voluntary desegregation plans, and they had virtually no impact, just token impact, on the levels of segregation.

Mr. ARMOR. I agree that the only realistic option right now is metropolitan plans on a voluntary basis for many of the larger cities. But I think—and this is important, I think, for the Congress—the courts have really fouled things up. They could not find a legal basis to order metropolitan plans, and yet they have frightened the suburbs literally away from participating in interdistrict plans on a voluntary basis.

A good example is St. Louis, where the court asked the suburban districts to voluntarily agree to participate in an exchange. The controversy has been so great and so intense that virtually none—I think 3 or 4 out of 25—agreed to participate. I submit we wouldn't have that kind of dilemma today if the courts hadn't frightened people with mandatory busing policies. As a matter of fact, the St. Louis judge has, after he couldn't get anywhere, has now ordered those districts to take part. I think that, you know, as much as I want to pursue voluntary plans, we have to get the court out of the business, because we are not going to be free, I think, to encourage communities to cooperate when they fear that the courts will use that against them in the future. I am not sure how to solve it, but there is no question that the courts have done damage in our ability to actually convince people to participate in voluntary plans.

I'd also like to make a comment about the housing issue, if I might be allowed to, and that is that I think it's very important to encourage the kind of research that Dr. Pearce has done. I think it very impressive. I also think, however, you have to look at the possibilities, again, under voluntary plans for housing integration under that approach.

You will note, for example, that Riverside shows among the most extensive increase in housing integration. In our study, Riverside has not had any extensive mandatory busing of white students to minority schools. That's very important to point out. San Bernadino, although not showing as great gains as Riverside—it's next door—has shown very substantial increases in housing integration with a strictly voluntary plan. So again, I think we don't want to be misled by this very important data to think that it is only mandatory busing of whites that is going to accomplish housing integration. Again, the evidence is not substantial, but there is every reason to think we can in fact make progress in housing integration in voluntary plans, and they certainly are a lot more acceptable to the public.

Ms. Cooper. Thank you.

Mr. Edwards. Mr. Boyd?

Mr. Boyd. Thank you, Mr. Chairman.

Dr. Rossell, is it fair to say, again, based on your comment with regard to comparing your testimony with that of Dr. Armor, that you agree with him that white flight is not based so much on racial prejudice as by a perception of declining safety and declining quality of education for children?

Ms. Rossell. No; I think the problem with his analysis is it's a simple one-stage analysis. I have seen some path analysis models which suggest that one of the prime causes of how you perceive the quality of education in the schools and the quality of life in the urban city is racism.

Mr. Boyd. So you think racial prejudice is the principal motivator?

Ms. Rossell. Yes.

Mr. Boyd. How then do you explain the amount of black flight which has taken place from the District of Columbia during the decade of the 1970's, as indicated by the 1980 census, to the effect that a large percentage of middle-class blacks have been leaving the District of Columbia for the suburbs?

One reason for that could be a belief that the quality of education in the District of Columbia is less than excellent.

Ms. Rossell. I have always thought one of the most naive beliefs that people have is that a human being cannot be prejudiced against their own racial or ethnic group. In fact, we find human beings are quite capable of being prejudiced against his or her own racial group, and we find blacks, for example, are quite capable of being prejudiced against blacks. Second, research done by Giles, Gatlin, and Cataldo finds that although racism is not a primary factor in their study, what was a prime factor was class prejudice. The two are so intertwined at times that it is hard to distinguish between them.

Blacks do leave the center city because they are concerned about race, that is, having their children going to school with other blacks. They may be concerned about having their children go to school with lower class children—all of which in their mind is bound up in the idea of quality education.

The example I always use to show how confused people are about this is that Wellesley High School about 2 years ago—Wellesley is an upper middle class practically all-white suburban high school in the Boston SMSA—approximately 3 or 4 years ago, they lost their accreditation because their library was deemed to be extremely bad. No library in the Boston school system lost its accreditation because of a bad library. Yet most people would have said that the facilities of Wellesley High School are better than the facilities at the Boston public schools, because there is a higher proportion of Wellesley students going on to college.

In fact, what we are simply talking about here is the idea that—the fact that upper middle-class white kids go on to college and people think that if you send them to those schools, your kids will get a good education. There is no evidence that in fact that is the case.

Mr. BOYD. But there may well be a third consideration which explains why black members of the middle class leave the District of Columbia. That may be the level of standing of the District of Columbia public schools in relation to the rest of the country, and the low test scores that the District of Columbia has with regard to the rest of the country, and the perception of those middle-class blacks who themselves have experienced a degree of discrimination in their lives that they can gain better schooling and better educational opportunity outside the District.

Dr. Armor——

Mr. HYDE. Wait a minute. I would like to hear some comment on that.

Ms. ROSSELL. OK, well, I guess the problem is that in fact that may indeed be their perception, that low SAT scores mean a bad education. In fact, if we're talking about actual inputs into the school system, the Washington——

Mr. BOYD. Financial input?

Ms. ROSSELL. Yes; quality of teachers, facilities, curriculum. The Washington public school system would have to have something like 5 times the amount of money put into it——

Mr. BOYD. I think the teachers have the highest pay——

Ms. ROSSELL. Yes; something like 5 times the amount of money put in to come close to the suburban schools. The problem is that most of what the children come into school with, they leave with. I mean, very few children actually progress to the extent of having acceleration in their learning.

Mr. BOYD. One of the problems with the District of Columbia school system, as I understand it, has to do with discipline, and the statistics have shown that students have been rewarded more for conforming to rules than for academic achievement, with the result, unfortunately, that some highly lauded, highly qualified students, have been admitted to local colleges and have performed poorly because they were not taught the basics.

The fact that they were not taught the basics, and were admitted, and the tests show they have not learned the basics, has encouraged black middle class citizens of the District to go to areas where they perceive their children to have better educational opportunities.

Ms. ROSSELL. Sure. But the point is we don't know what is the cause and what is the effect. Do the kids not learn the basics because they come to school from troubled home environments, and do not want to learn, and find the schools a hostile place; or did they not learn the basics because the teacher was a bad teacher and the classroom was always disrupted?

The same thing would be true of private schools. I made the point earlier, and I will stick by it. If we put all the public schools in the private schools, you would find the private school student would resemble the public schools. There's nothing magical about private schools.

Mr. HYDE. Except that they can discipline the kids, and they can't do that in the public schools. They can get rid of the troublemakers and then teach and not have to worry about karate, defending themselves. That's the difference. That's why private schools will never have the handicap. And I am not blaming the public schools. They are handicapped.

Ms. **Rossell**. We could go back to the 19th century, to the elite system.

Mr. **Hyde**. When a lot of people were pretty well educated.

Ms. **Rossell**. That's right, and a lot of people weren't.

Mr. **Hyde**. That's true, and now we are spending a lot of money and still a lot of people aren't well educated, and are functionally illiterate. It's a scandal that the colleges have to teach remedial reading with the billions we spend on education. It isn't racism. There is much more that's wrong with our educational system. And you can't accuse blacks of being against blacks. It's cultural disaffection. It's economic disaffection.

We use the term "racism" so broadly, and it's so misleading. There are white communities where I would not want my kids to go to, and study—plenty of them, and I could name them. There are Hispanic communities—there are so many other factors. Youth gangs. In Hispanic communities, in Chicago the Cobras, the Vice Lords in the black community. We haven't talked about that.

But if my kid had to get bused to one of those places where it's worth his life to leave the classroom, and worth the teacher's life—that is something—and not the quality—it has to do with the cultural situation that we are a long time in resolving. I sure don't have the answer.

Ms. **Rossell**. That's right.

Mr. **Boyd**. Dr. Pearce?

Dr. **Pearce**. I just would like to add a comment that one of the reasons that you find middle class black flight from the District of Columbia or any other city is that in our society, for a child to be educated in a predominantly minority school, no matter how good or how much there is in terms of financial resources, that education will not be valued as highly by the society at large.

Mr. **Boyd**. Even if the quality of the school is high, and test scores are high?

Dr. **Pearce**. Right, because it is a minority school, and minority parents know that even if it is equally as good as a white school, they know that it will not be seen that way by whites. They want their children not only to get the best education, but to have it valued as the best.

Mr. **Boyd**. So what you are saying is if there was a school such as an academic high school in the District of Columbia—if there were to be a school populated principally with minorities in the District of Columbia which produced students of high academic qualities, whose level of scores were within the highest percentile nationwide, that they would be frowned upon by colleges, because they make a minority?

Dr. **Pearce**. I said a predominantly minority school, an overwhelmingly minority schools.

Mr. **Boyd**. That's what I am hypothesizing.

Dr. **Pearce**. Yes; I think so.

Mr. **Boyd**. Yes, Dr. Rossell.

Ms. **Rossell**. I did an analysis of white flight in Los Angeles for the first and second year of desegregation, and I found absolutely no relationship between the median achievement scores of the minority schools and white flight. Whether I looked at math, verbal, or combined them together, there was no relationship whatsoever. The dominant characteristic was that it was a minority school and the length of busing distance. In fact, four minority schools had higher achievement levels than the white schools that they were paired with, and had no difference in white flight compared to the other minority schools.

Mr. **Boyd**. How does that respond to my hypothesis? In other words, are you saying that if a school in the District of Columbia, simply because the District of Columbia is 70 percent black, were to be an academic high school with high academic levels, high academic ratings, high test scores, but predominately, minority those students who apply to colleges, wherever those colleges might be located, will be considered on a secondary level to those coming from majority white schools?

Ms. **Rossell**. That's right. Whites consider minority schools to be inferior, regardless of the achievement of the school.

Mr. **Boyd**. Dr. Armor, do you have any comment on that?

Mr. **Armor**. Yes. First of all, Professor Rossell and I have to get together again, because we disagree fundamentally on what the data is saying in Los Angeles. My analysis of the white flight, which I testified to in court there, was that the only two factors that were correlated with white flight—the amount of white flight in individual pairs and clusters—the No. 1 factor was distance—travel time. The further away the school, the more white loss. And the No. 2 factor was the achievement level of the minority-receiving school. It was a very strong and significant correlation. So we will have to go back and look at our data.

But I know I can cite you cases and examples of what happens. For example, Baldwin Hills, which is a middle class, upper SES black community paired with Pacific Palisades, had among the least white losses of any paired cluster. The ones that pitted a San Fernando Valley white school with a central city and a very low achieving black minority school had loss rates of 80, 90 percent, a virtual wipeout. Almost no white students showed up.

And I do want to say one more thing about racial prejudice. I couldn't agree more that that term has been completely destroyed of utility, by social scientists, now, because we now cover so many different kinds of behavior and call it "racism." As I mentioned in my statement, we now have symbolic racism, which means if you oppose busing you are a symbolic racist.

And I don't think that the kind of things that we studied in prejudice years ago are happening today. There's no question that there's racial prejudice, but it's much less than it was 20 or 30 years ago, and there is no indication in Los Angeles, for example, that there has been any loss of whites from black and Hispanic kids coming in very large numbers into their neighborhood schools. No indication at all.

The schools that were paired where whites had to be transported out of their neighborhoods lost 60 percent of the white students. They did not show up. The white loss rate in those schools that were not part of the mandatory busing plan had anywhere from 3 to 5 percent loss, which are normal demographic losses. Now, what is the utility of the term "prejudice" if we're going to claim the whites who were transferred were prejudiced, but those who were not transferred but had a lot of minority students in the schools did not flee?

I think we have lost all utility for that term. It's educational considerations. Some racial, yes, for some people, but the majority of whites who do not like busing and flee from it are not doing it for racial reasons—strictly racial reasons. They are doing it for educational reasons; issues of personal safety; concern, perceptions, possibly incorrect, about whata minority community is like. But those do not have to be called racial prejudice. I don't think we get anywhere when we accuse whites who oppose busing of being racist.

Mr. Boyd. Dr. Rossell.

Ms. Rossell. I want to add a couple of points. First of all, the school he was alluding to in Baldwin Hills is Windsor Hills Elementary School. For a long time in Los Angeles, it had the highest reading scores in the City of Los Angeles, and it was an all-black school.

Gradually, each year, blacks left that school, and put their children in private schools.

Mr. Boyd. What level of success did the graduates of that school have with regard to applying for college?

Ms. Rossell. I have no idea. I'm sorry.

Gradually, over the years, black professionals, psychiatrists, and all of those who lived in the area of Baldwin Hills, began taking their children out of that school and putting them in private schools.

As a result, in 1977, when Los Angeles first desegrated, Windsor Hills did not have the highest reading scores, even among the minority schools. There was still that perception amongst whites that it did. But the reason why it didn't is because all of these upper class blacks who had gone to that school had, by this time, left—or most of them had left for private schools, which had the prestige that enables your kid to get into a good college.

Mr. Boyd. Excuse me, but for racially motivated reasons; is that right?

Ms. Rossell. Well, in this particular case it wasn't racially motivated reasons. I mean, I don't know, but I would suspect it's essentially a matter of practicality.

Mr. Boyd. What sort of practicality? You mean in terms of quality of schooling?

Ms. Rossell. No. In terms of how much a black school is worth in the college marketplace. Graduation from a black school, regardless of what its achievement is—you see, when you apply for college, the college doesn't ask you what the average SAT score of your child's school is.

Mr. Boyd. No. But they ask you what the average SAT score of the child is.

Ms. Rossell. That's right.

Having gone to a black school is apparently seen by many parents as a deficit and, in fact, one of the things that is always discovered. And Dr. Armor discovered it in his analysis of METCO. METCO is the voluntary interdistrict busing program between the city of Boston and the various suburbs. The suburbs who take minority students from the city of Boston are paid a certain amount of money to do that. It's one of the most successful voluntary programs in the country in terms of numbers involved.

Even Dr. Armor found, in his study of that program, that minority students who went to white schools had greater access to information about colleges, that black schools in general tended to be very bad about giving that kind of information and getting you the kind of contacts you need.

Now, maybe that's what black parents were thinking of when they took their children out. I have no idea, because there's no social science research on this.

Mr. BOYD. Might that sort of conclusion be different if the school was full of, let's say, a majority black population which was highly academically motivated? I mean, it's very difficult for me to accept your conclusion that black students are finding it difficult to get into college, regardless of their academic abilities, regardless of their academic test score results which pit them against students all over the country, regardless of the recommendation and all the other material which goes into a college application, simply because they come from a majority black school.

Ms. ROSSELL. Well, that definitely does.

I have been on admission committees, and I can tell you that the school that the child goes to is a very important thing if we know anything about that school.

Mr. BOYD. I have been on admission committees, too, and found the quality of the child's performance relative to other children, compared to test scores, has the greatest bearing on whether that child is accepted.

Ms. ROSSELL. Right. But the important thing here is not what you or I think. The important thing is what the parents think, what their perception is. And that's really the important thing, not the fact.

Mr. BOYD. I have one question, if I may, Mr. Chairman.

Dr. Armor, you indicated earlier that you thought that one of the problems with regard to black views on the busing question was the perception of the black community that better education was available in predominantly white schools. Is that a correct reflection of your testimony?

Mr. ARMOR. That's correct.

Mr. BOYD. If that's the case and if you could change that perception and substitute one which says that a local minority school has a good academic atmosphere, then blacks would be disinclined to favor busing; is that correct?

Mr. ARMOR. I would say many fewer would favor busing than do today.

Mr. BOYD. Well, if that happens, then how do we, as a society, encourage interracial contact, without which there would be, at least in the view of some, the danger of social segregation? How do we deal with that?

Mr. ARMOR. Well, I think it's a complicated problem. And to some extent we're always going to have a certain amount of concentration of groups, whether it be racial or religious or ethnicwise. I think that—it's my belief that in the long run—I mean, it's kind of a false question, because the mandatory programs are actually increasing the amount of separation in my opinion, especially in the central city cases. So it's a question of—it's going to be a problem, but what is the most cost-effective way to get to it?

And it may well be that if we change perception of black parents, that fewer will transfer out; although I don't think it's going to completely change. I think there will always be minority parents who would prefer to change locations, possibly not for educational reasons, but for other reasons. And I think to some extent that that will be always true, and we should facilitate that as much as possible.

But I do think the process of integrating society is a very complex one, and it is going to take an awful lot of effort and time and growing, shall we say. The closer I think that the races get economically and occupationally and socially, I think that is the long-term way to assimilate society. And we're trying to force it, which I think has backfired and really perhaps set us back from that goal.

Mr. **Boyd**. Thank you, Mr. Chairman.

Mr. **Edwards**. All the witnesses have testified that a desegregated America is desirable insofar as the education system is concerned; is that correct?

Mr. **Armor**. Yes.

Ms. **Rossell**. Yes.

Ms. **Pearce**. Yes.

Mr. **Edwards**. Dr. Armor, previous witnesses on other days have given us examples, such as in Charlotte-Mecklenburg, where desegregation just wouldn't have taken place if it had not been for the court order. And witnesses testified that it can't be successful—desegregation or a busing order of the court—unless there is leadership by the political figures, by the newspapers, and by the school board. And from what we have heard, the Los Angeles case was exactly the opposite of that. And in Charlotte-Mecklenburg, eventually there was support from the political leaders and the school board.

What would have happened in Los Angeles if the school board members hadn't tried to sabotage the order and the newspapers instead of gone along with it? Did you study that in your study of Los Angeles?

Mr. **Armor**. It's hard to study the effect of media and the school board. I know that Dr. Rossell has commented on it in her statement. I think though that you have to realize—maybe this is just something we all already realize—that a school board and the press are going to reflect to a large extent the community. If a community is more inclined to favor a certain policy, then you're going to have less controversy. Certainly that's true in Berkeley, Calif., where the board voluntarily adopted a mandatory busing plan. There was some white flight, but less than what we see in other cities.

And Charlotte-Mecklenburg was one of the first districts to undergo desegregation. I think it has many attributes that made its leaders want to favor it. I think that there was also less white flight because it was a metropolitan district. There were fewer options there.

I think in Los Angeles you're talking about very, very strong opposition and a place where there are many options to leave, to flee the system.

It's possible that a school board can exacerbate the situation. But when you have 86 percent of a group opposing a policy, then you are going to have controversy. I don't think that the school board creates the problem. I think they simply reflect the public opinion that's behind it, and so does the press.

Mr. **Edwards**. You just didn't have 86 percent in the old South. You had almost 100 percent of the people resist it, and yet it worked out rather well.

Mr. **Armor**. In Charlotte. But we can't let Charlotte stand for the entire South.

Mr. **Edwards**. No. I meant in most cities of the Old South, where 100 percent of the people resisted—the white people—and yet the political leaders and others cooperated with the court's order and with the law, and somehow or another it worked out all right.

Mr. **Armor**. I don't know. It's a question of the Los Angeles board, not cooperation with law. I think it's a question of what the board says. The board represents what it feels its constituency is and the policy. It's not going to happen just in Los Angeles. It has happened in Boston, it's happened in Denver.

As you know, school boards often change in composition if the board comes out in favor of busing. It's happened again and again. As a political entity, a school board does have an obligation to represent the opinions of its population. It didn't happen in Charlotte-Mecklenburg; it didn't happen in some other places in the South.

But also Los Angeles is not that different than, for example, what happened in Atlanta during this controversy. The board in Atlanta opposed a mandatory plan.

So, I do agree that we will find cases where it has worked out with relatively little controversy. But in the large city districts, where the issue of segregation is most important because they have the most minorities, mandatory busing is going to be controversial and it's going to be opposed by a large majority of the whites and significant majorities of other minorities, except for blacks. It's a fact. I think we can minimize it to some extent, but I think we're not going to get away from the 80 percent that oppose it in most cases.

Mr. **Edwards**. Dr. Pearce.

Ms. **Pearce**. I'd like to make a comment. Charlotte was one of the cities I studied. Charlotte is possibly unique because it was the first school system in which the Supreme Court ordered districtwide busing. The district court had ordered busing in 1970, and the school system experienced busing for a year, believing it would be overturned at the end of that year.

At the end of the year, when the Supreme Court upheld Judge McMillan's order, they were in the position of having experienced it for a year, and the world hadn't come to an end. And it pretty much undercut the opposition, which reinforces the suggestion you made, that there was tremendous opposition in Charlotte, as well as elsewhere throughout the South, and that after experiencing desegregation, there has been a dramatic decline in opposition to desegregation throughout the South. And the most dramatic change in opinion has occurred afterward.

The opposition that Dr. Armor is talking about, including a survey in Los Angeles, is of parents before they have experienced desegregation plans in communities, before it has been implemented. Once it has been implemented among those who are experiencing it, the great majority—85 percent is a figure in the last Harris poll, from March 1981—of those whites whose children experience busing find it satisfactory.

To say that because there is tremendous opposition to busing, one must distinguish between whether they have had experience in desegregation, or not, because it is simply much less among those with the experience compared to those without it.

To answer your question about the media, I think one of the best school systems to handle that was Springfield, Mass., where they hired a media specialist and went on TV and had special programs. They had rumor phones for people to call and ask questions about what was happening, such as, "Is there, in fact, a riot?" or whatever.

And they did a very effective job of communicating with the community. They had visits between schools ahead of time so people could get to know the schools where the children would be going. They had a PTA bus.

They did a great deal of things to facilitate it. They basically decided that if this is what we're going to have to do, we're going to do it right. I think that's what is happening in many school systems like Charlotte.

Mr. EDWARDS. Well, thank you very much.

Are there further questions?

Mr. HYDE. I didn't hear the gentleman from Charlotte-Mecklenburg testify, but I read his statement and my recollection is he said there were 5 years of pretty rough going. Was that correct?

Ms. PEARCE. Yes. Although you also have to remember there was a great deal of rough going throughout the country. There was a great deal of unrest, and the level of blacks in all schools was much higher in the early 1970's than it has been in the second half of the decade. It's very difficult to separate out which caused it—desegregation or such things as Vietnam.

Mr. HYDE. Well, I don't know the cause and effect, but Charlotte-Mecklenburg is held up as a model. My recollection from the—just from the statement was that there was 5 years of pretty rough going and a lot of antagonism and polarization, et cetera, et cetera. And that is a cost factor that has to be put in the balance.

Now, I guess you can get used to a lot of things you don't want to get used to in the beginning, and I think we can agree that, with the nonavailability of options that are evidently available in a place like Los Angeles and having to get accustomed to it, it's working fine. If there were just some way we could get over that transition period everywhere, it would be great.

Mr. EDWARDS. If the gentleman would yield.

Doing the right thing is often very unpopular.

Mr. HYDE. Finding out the right thing is often very difficult. Doing the right thing isn't half as tough as finding out what it is.

Mr. **Edwards**. Well, if there are no further questions, these three witnesses have been immensely helpful.

Mr. **Hyde**. One of the great panels we have had, Mr. Chairman. And I would like to congratulate every one of them.

I hope this is published. I want to read and re-read everything that was said today.

Mr. **Edwards**. Thank you.

[Whereupon, at 12:25 p.m., the hearing was adjourned.]

SCHOOL DESEGREGATION

WEDNESDAY, OCTOBER 7, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met at 10:07 a.m., in room 2237 of the Rayburn House Office Building; Hon. Don Edwards, (chairman of the subcommittee) presiding.

Present: Representatives Edwards and Sensenbrenner.

Staff present: Janice E. Cooper, assistant counsel, and Thomas M. Boyd, associate counsel.

Mr. **Edwards**. The subcommittee will come to order.

The Chair notes the presence of a working quorum for a public hearing, and the subcommittee will recess for 10 minutes for a vote.

[Whereupon, a short recess was taken.]

Mr. **Edwards**. The subcommittee will come to order.

Our witness today is an old and dear friend of the subcommittee, Dr. Arthur Flemming, Chairman of the U.S. Commission on Civil Rights.

Since its inception, the Commission has provided the Congress with the most useful, comprehensive, and accurate information on this volatile issue of school desegregation, as well as on other issues. The reports and surveys conducted by the Commission have been invaluable in helping to keep the debate as close to reality as possible.

We would like to welcome you here today, Dr. Flemming. We thank you for your patience and consideration in rescheduling this hearing. All of us are particularly grateful for the valuable assistance that the Commission rendered to the Judiciary Committee and to the House of Representatives, and indeed to all of the American people, on the extension of the Voting Rights Act which the House passed overwhelmingly day before yesterday. We really couldn't have gotten along without the wonderful information and research that you furnished to us, and we indeed are very, very grateful.

Would you please identify your colleagues.

Without objection, the entire statement will be made a part of the record, and you may proceed.

[The complete statement follows:]

STATEMENT OF ARTHUR S. FLEMMING, CHAIRMAN, U.S. COMMISSION ON CIVIL RIGHTS

Mr. Chairman and members of the subcommittee, I am Arthur S. Flemming, Chairman of the United States Commission on Civil Rights. The Commission is pleased to respond to your request for our testimony on school desegregation. Accompanying me today are John Hope III, Acting Staff Director, Karen McGill Arrington, Education Monitor, and Paul Alexander, Acting General Counsel.

The Commission believes that school desegregation is the single most important issue confronting the Nation today in the field of civil rights. Any retreat in our efforts to achieve this goal will seriously harm our efforts to move forward in other civil rights areas.

Consistent with this belief the Commission is concerned about the following recent decisions by the Civil Rights Division of the U.S. Department of Justice: To drop its efforts to seek an order which would require in Houston, Texas the development and implementation of a metropolitan desegregation plan; to accept as adequate the Chicago school board's proposed initial steps towards desegregation when as recently as July 1981 the Department had advised the court that the plan was "incomplete"; to change its position on a Texas State law which denies free public education to illegal alien children from opposition on constitutional grounds to no position; and to change its position on the State of Washington's anti-busing law from opposition on constitutional grounds to support.

Also, the Commission is very much concerned about the following actions by the Congress: Insistence by both Houses of Congress over the past four years on inclusion of an amendment to education appropriations which prohibits the use of funds to require school desegregation when the transportation of students to a school other than the school nearest the student's home would be required; the passage by the House of Representatives of the Collins amendment to the Department of Justice's authorization bill which woud deny to the Department the right to spend funds to bring school desegregation cases that require transportation of students beyond the school nearest to the student's home; the passage by the Senate of the Helms amendment to the Department of Justice's authorization bill which would deny to the Department the right to spend funds to bring, or maintain, school desegregation cases that require transportation of students beyond the school nearest to the student's home; and the passage by the Senate of the Johnston amendment to the Department of Justice's authorization bill which seeks to limit the instances when Federal courts could order student transportation and the time and distance of such transportation in school desegregation cases.

Taken together, these actions can be interpreted in only one way, namely, that those who oppose desegregation of our schools are developing a momentum which must be taken seriously by those who believe that segregated schools are in direct conflict with the 14th amendment of the Constitution.

The Supreme Court of the United States, twenty-seven years ago in *Brown* v. *Board of Education*, ruled that segregated school facilities are inherently unequal and held that State-sanctioned dual school systems deny minority children the right to the equal protection of the laws which is guaranteed by the 14th amendment to the Constitution.

Segregated school facilities are still inherently unequal. They still deny children and young people equal educational opportunity. Segregated school systems which are the outgrowth of actions by public officials must be desegregated if the constitutional rights of the young persons who are dependent on those schools are to be enforced.

School desegregation has already taken place successfully in many communities across the country. In 1954 in the South, less than one percent of black students attended schools with whites. By 1968, 18 percent of black students in the South were attending majority white schools and by 1978 this figure had increased to over 44 percent. Nationwide in 1968, some 23 percent of black students attended majority white schools. By 1978 this figure had increased to over 38 percent.

These same figures make it clear that we still have a long distance to travel. *Brown* v. *Board of Education* set a national goal—the goal of desegregating public school systems. That goal can be reached. In order to do so, however, we must defeat the efforts to erect obstacles that would deny to public officials—particularly in the judiciary and in the executive branch of the government—the right to utilize methods that must be used if segregated school systems are to be broken up.

LEGAL CONTEXT

One of the most encouraging developments in the area of desegregation has been the manner in which the Federal courts, over the years, have implemented the basic holding in *Brown* v. *Board of Education*. These developments, viewed in the context of our past, underline the national progress we have made in the last twenty-seven years in accepting and enforcing the constitutional mandate of equal opportunity, particularly in the area of school desegregation.

When slavery was legally abolished by the ratification of the 13th amendment in 1865, the proponents of the amendment, as well as the proponents of the 14th and 15th amendments, intended to place blacks on equal footing with white citizens and remove the badges of inferiority that had been conferred upon them by slavery. This new freedom was soon undermined by a system of laws and customs, by no means limited to the South, that barred blacks (and almost all persons of color) from the mainstream of American society. Legislatures dominated by white-supremacist thinking enacted laws for housing, public transportation, educational institutions, and other public facilities which sabotaged the clear intent of the Civil War amendments by creating a segregated society.

The Supreme Court subsequently put its stamp of approval on this system of dual societies by supporting the "separate but equal" doctrine in 1896. Not until the mid-twentieth century did the Supreme Court recognize in *Brown* v. *Board of Education* what it had earlier rejected in 1896, namely that "enforced separation of the two races stamps the colored race with a badge of inferiority." *Brown* held that the legally-sanctioned practice of segregating public school systems denied black children the right to equal protection of the laws that is guaranteed by the 14th amendment. The Supreme Court declared that State-imposed separation by race in public schools was an invidious and discriminatory classsification and, for that reason alone, a violation of the Constitution.

Brown heralded the demise of the entire legal framework that had sustained and fostered segregation in almost every aspect of American life. After this landmark decision, Federal courts moved to end all forms of State-sanctioned racial segregation in decisions citing *Brown* that were affirmed by the Supreme Court. In various other areas of life such as public parks, restaurants, hotels, libraries and courtrooms, desegregation also took place despite vigorous opposition by segments of the public.

The Supreme Court set forth in 1955 broad guidelines for implementation of its order in the *Brown* decision. The Court required local school officials to "effectuate a transition to a racially nondiscriminatory school system" and to do so "with all deliberate speed." The Court charged the Federal district courts with the responsibility of overseeing local compliance. The court emphasized in its *Brown II* holding:

"Full implementation of . . . constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for . . . solving these problems; courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles. Because of their proximity to local conditions . . . the courts which originally heard these cases can best perform this judicial appraisal."

Brown did not and could not by itself end segregated public education. A single judicial decision could not overcome determined resistance by local officials and others in communities where the practice of racial segregation was still deeply entrenched in every aspect of daily life.

Further, the simple removal of segregation laws from the books did not initiate desegregation. Local school officials merely acted to substitute so-called "racially neutral" policies that were intended to have little or no effect in removing State-perpetuated segregation in education. These local evasionary strategies included "freedom of choice" assignment plans and the promotion of the "neighborhood school" concept.

In the years following *Brown* the Supreme Court has carefully clarified the constitutionally-mandated remedy for officially sanctioned public school segregation. Once it is determined that a school system is segregated, school officials have the affirmative duty to eliminate its effects. If racially-neutral policies do not result in public school desegregation (and they rarely, if ever, do) color-conscious remedies must be employed. As Judge John Minor Wisdom of the 5th Circuit Court of Appeals in *U.S.* v. *Jefferson County Board of Education* aptly observed:

"The Constitution is both colorblind and color-conscious. To avoid conflict with the equal protection clause, a classification that denies a benefit, causes harm, or imposes a burden must not be based on race. In that sense, the Constitution is color blind. But the Constitution is color-conscious to prevent discrimination being perpetuated and to undo the effects of past discrimination. The criterion is the relevancy of color to a legitimate governmental purpose."

School boards that had chosen deliberately to segregate their systems and had bypassed numerous opportunities to make decisions that countered school segregation, frequently delayed or simply refused to develop desegregation plans that would be effective. The Supreme Court in 1964 recognized that the time for the measured pace of "all deliberate speed" had passed. The Court in 1968 reiterated that "[t]he burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work now." Frustrated with the lack of progress in achieving school desegregation, the Supreme Court in 1971 focused on remedial methods by which school officials might dismantle unconstitutionally segregated school systems. The Court observed in *Swann* v. *Charlotte-Mecklenburg Board of Education:*

"Absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. . . . But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient, and even bizzare in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems."

The *Swann* decision upheld the use of busing as a part of a desegregation plan. The Court stated that pupil transportation by bus is a "normal and accepted tool of educational policy," that bus transportation "has been an integral part of the public education system for years, and was perhaps the most important factor in the transition from the one room schoolhouse to the consolidated school," and that although busing is only one tool among many, "desegregation plans cannot be limited to the walk-in school." This observation is borne out by the fact that slightly over 50 percent of school children are bused to school, and of this percentage less than seven percent are bused for desegregation purposes.

The Supreme Court's early school desegregation decisions dealt with cases arising primarily in southern States that had statutes requiring segregation in public schools. This form of segregation is known as de jure segregation.

The courts found the mere presence of segregation, de facto segregation, to be inadequate evidence of a violation in instances where there was an absence of State laws requiring school segregation. In 1972, the Supreme Court in *Keyes* examined the concept of de jure segregation and held that in addition to laws requiring segregation it includes deliberate actions taken by school officials, local officials, or State officials that create or support dual systems of education. The Court recognized that school board policies and practices regarding "school site location, school size, school renovations and additions, student-attendance zones, student assignment and transfer options, mobile classroom units, transportation of students, assignment of faculty and staff," could be employed to create or maintain school segregation. Since this decision was rendered, any school district that has been found to be segregated as a result of actions taken by public officials has been under the same obligation to desegregate as are those that were segregated by State law.

It is important to underscore that courts have imposed orders requiring the reassignment and where necessary, the transportation of students only where a violation of the 14th amendment by government officials has been judicially determined and where other school desegregation methods have proven inadequate to remedy the violation. Litigation in individual school desegregation cases generally involves numerous evidentiary hearings and multiple judicial decisions which cover a number of years. Before ordering any remedy, Federal district courts have uniformly required local school authorities to develop their own plans for school desegregation. Judges have ordered the implementation of specific remedies only when school districts have failed or refused to propose plans that will effectively eliminate the vestiges of segregation in their schools.

The meaning of *Brown* must be clearly understood by those examining the process of school desegregation. It does not require quality education for all children nor does it mandate racial balance. Although school districts should seek, as a part of a desegregation plan, to improve the quality of education, they are not required constitutionally to do so. All they are required to do is to break up the segregated system. Also, contrary to allegations made by some opponents of desegregation no Federal judge has required a single school district to achieve racial balance in all of the schools in the district. Again, all that is required is to break up the segregated system.

The crux of *Brown* is simply this: officially imposed segregation in education discriminates against minority children and denies them the right to equal educational opportunity which is guaranteed by the United States Constitution. Desegregation is the constitutional remedy mandated by the Supreme Court. In interpreting this mandate, Judge John Minor Wisdom noted "The only school desegregation plan that meets constitutional standards is one that works." Stated another way, a right without an effective remedy is meaningless.

THE STATUS OF SCHOOL DESEGREGATION

In evaluating the status of school desegregation in our Nation, it is important to understand that the Constitution, as interpreted by the Supreme Court of the United States, requires the elimination of officially imposed segregated systems of education. It is segregation that denies to children and young people equal educational opportunity. Therefore, the question that should be addressed is: What has happened to segregation in our schools since 1954?

In 1978, more than 38 percent of black students attended schools that were at least 50 percent majority; the corresponding figure in 1968 was 23 percent. In the South where desegregation efforts have been concentrated the percentage of black students attending schools that were at least 50 percent majority rose from 18 percent in 1968 to 44 percent in 1978.

Some school districts have not only implemented student reassignment plans but also have worked to achieve the spirit of the law by integrating all aspects of the school environment.

The Commission's experience in the area of school desegregation spans over twenty years and includes hearings, reports and studies on the subject. I would like to identify some of our principal observations.

Affirmative leadership and support at the community level are essential for the successful implementation of school desegregation.

In 1976, the Commission issued its report, "Fulfilling the Letter and Spirit of the Law," a comprehensive study of the desegregation of the Nation's public schools. This report incorporated the findings of numerous Commission studies, public hearings, meetings, case studies, and a national survey of school desegregation in hundreds of districts in the North and South. Some school districts studied had desegregated voluntarily, while others had done so under court order. Our major conclusion was that school desegregation does work and one of the primary ingredients for its success is positive local leadership.

In numerous communities, such as Greenville, Mississippi; Minneapolis, Minnesota; Denver, Colorado; Tampa (Hillsborough County), Florida; Berkeley, California; and Union Township, New Jersey, desegregation initiatives were accompanied by a positive approach from the local school board, administrators, or community leaders that promoted support for effective desegregation. In these and similar communities, students and parents were encouraged to go forward despite personal misgivings they may have had. In other communities, such as Bogalusa, Louisiana; Pontiac, Michigan; and Prince George's County, Maryland, resistance to desegregation by school authorities and other community residents resulted in needless opposition and polarization.

Because of the unrest and community disruption that accompanied desegregation of the Boston Public Schools and the Louisville-Jefferson County Public Schools, the Commission conducted public hearings at these two sites. In our report on desegregation in Boston, the Commission found a failure on the part of leaders at all levels—the Boston school committee, city officials, and the Federal government—a failure "to speak out in no uncertain terms in support of the constitutional and moral values which [were] an integral part of the court-ordered desegregation plan." The report further noted that a lack of leadership and defiant attitudes had fostered community resistance to desegregation and reinforced the view that opposition would yield results. Similarly in Louisville, the Commission found that local elected officials had abdicated their responsibility to support the desegregation order, and as a result, had contributed to community controversy and opposition.

The Commission strongly believes that the constitutional mandate of the *Brown* decision cannot easily be achieved without the clear support of leaders at the community level.

The implementation of desegregation plans should include reassignment of present staff and should be accompanied by the development and implementation of an affirmative action plan for all school personnel.

In most school desegregation cases, reassignment of teaching faculty is a necessary component of the desegregation plan. A comprehensive plan must provide for reassignment of minority administrative and auxiliary staff as well as teachers throughout the system. In districts where there are limited numbers of minority personnel, it will be necessary to develop and implement an affirmative action plan in order to obtain an integrated staff that will reflect closely the composition and needs of the total school community. Provisions should be adopted both in the desegregation plan and in the affirmative action plan to ensure that minority staff do not suffer discriminatory demotion, dismissal or displacement. Minority staffing was addressed, for example, by the court orders in Boston, Denver, Tampa (Hillsborough County), and Louisville (Jefferson County).

Affirmative recruitment and reassignment of administrative, faculty and service personnel are important because they reflect the commitment of school officials to the objective of achieving a truly integrated system.

The positive results from such efforts include cross-cultural experience for students. Black children accustomed to being taught solely by black teachers should have an opportunity to be exposed to the experiences and perspectives of white teachers. Similarly, it is important for white students and parents to have the opportunity for association with minority administrators and faculty. Minorities in positions of responsibility provide positive role models for all students, and ease the adjustment of minority students and their parents and majority teachers. A Tampa mother described her daughter's experience:

"My child's favorite teacher in high school was her black Spanish teacher, and without desegregation, she never would have had this experience. I think it was a very rewarding experience for my child."

In short, adequate minority professional representation throughout the system must be recognized as crucial to the successful implementation of a school desegregation plan.

The implementation of desegregation plans has positive effects on the lives of both minority and white students.

Any examination of the benefits of school desegregation must give consideration to the damaging effects of racially-based discrimination on young minorities. As psychologist and Professor William Ryan stated recently:

"The argument that school desegregation produces no educational dividends is simply irrelevant. . . . The purpose is to wipe out the casts implications of color. When drinking fountains were desegregated, no one expected the water quality to improve; when lunch counters were desegregated, the hamburgers and cokes didn't taste any better. . . . And no one expected black kids in desegregation swimming pools to start swimming faster. . . . Segregation itself unjustly inflicts pain and injury on black people. desegregation is designed to stop that particular source of hurt; that's a good enough goal."

In addition, evidence clearly demonstrates that school desegregation has other positive effects on students.

We found as early as 1967 that both white students and black students who experience desegregated schools are more likely later to live in desegregated neighborhoods. They are more likely to have friends across racial lines than are adults of both races who attended segregated schools, and their children are more likely to attend desegregated schools. Research also indicates that blacks who have studied in a desegregated setting have a more positive outlook on their occupational opportunities, have more access to an informal network of information about employment opportunities, and are more confident in interracial situations. These are all important considerations for adult occupational success.

Similarly, desegregated education contributes to higher levels of educational attainment and aspirations for minority students. Research shows that black students graduating from desegregated high schools are now more than twice as likely to complete college as their segregated peers.

Finally, it is clear that only in learning together as equals, and in sharing knowledge and experiences, can children acquire the values and understanding which will prepare them to become fully contributing members of our complex pluralistic society. A white and a black student, testifying at a Commission hearing in Boston, Massachusetts, discussed their experiences with school desegregation. One student stated:

"The benefits of . . . desegregation, are that you are educated alongside every other American child. You are not educated just about yourself, you are educated to what they are, who they are, what they are about, just as they are educated about you. . . ."

The other stated:

"[One] . . . benefit . . . is that we get to live together with one another. It is not just all whites living with all whites. It is everybody together, all races, colors, creeds, and religions and that is one main benefit I see."

The implementation of school desegregation has helped to strengthen the communities in which it has taken place.

The direct beneficiaries of school desegregation are of course the students. But, when local communities approach the desegregation process with the determination to make it effective and successful, both students and other community members benefit. Charlotte, North Carolina is an outstanding example.

Recently, there was celebration in Charlotte, whose desegregation litigation led to the Supreme Court's unanimous affirmation of the use of pupil transportation to remedy constitutional violations. An impressive cross-section of Charlotte-Mecklenburg citizens turned out for the local celebration. The school board canceled its own meeting to attend the dinner honoring the U.S. District Court Judge James B. McMillan, who listened to the testimony and made the initial decision, and the NAACP Legal Defense Fund attorney Julius L. Chambers who represented the plaintiffs. According to journalist and North Carolina native Tom Wicker, now a distinguished columnist with the New York Times, who was the guest speaker for the occasion:

"Judge McMillan has frequently said that he knew little about Charlotte's schools when the desegregation case reached him in 1969 but he found evidence of unconstitutional segregation in his home community "overwhelming." And he told the dinner audience that he had not hesitated to order busing as a tool for desegregation because it had been for so long used as a tool to *maintain* segregation." (*Emphasis added.*)

The Charlotte Observer noted in retrospect:

"Prior to busing, Charlotte was much more segregated than it is now. Not only were its schools identifiably white or black, but the community itself was divided along racial lines. . . . Through the use of busing, schools are no longer black or white, but are simply schools. . . . The center city and its environs are a healthy mixture of black and white neighborhoods. In fact, there is reason to believe school desegregation has encouraged neighborhood desegregation to a degree that allows a reduction in busing."

Progress in Charlotte-Mecklenburg has not been achieved without pain and effort. As the Charlotte Observer noted, "[I]t has taken 10 years to honor the two men who pushed that decision. [W]ithout busing and a commitment to desegregation, it might not have been possible." Editor Jerry Shinn of the Charlotte Observer wrote on the same subject:

"If, despite the Constitution and the courts, politicians find a way to do away with busing, they will be cheating some children out of something very important: the experience of functioning in an integrated society, which is the kind of society their generation is going to have to live in—that, or 'a house divided against itself,' which cannot stand."

METROPOLITAN DESEGREGATION

If we are to achieve the national goal of desegregation, we must move more rapidly than we have to develop and implement metropolitan-wide school desegregation remedies.

In many urban areas, desegregated education for students can be most effectively accomplished through metropolitan-wide remedies because minorities predominate in the inner-city areas of large urban centers. When evidence demonstrates that a mix of Federal, State, and local practices produced segregation in education and housing in the metropolitan area, interdistrict remedies are appropriate and necessary. The Supreme Court in *Milliken* v. *Bradley* indicated that a metropolitan-wide remedy should be ordered when the evidence presented shows that the constitutional violations have infected in a significant way all of the school districts sought to be included in the metropolitan decree. In recent years such violations have been demonstrated and interdistrict remedies have been ordered by the courts. Wilmington, Delaware and Indianapolis, Indiana are examples of this.

A major premise of the movement to consolidate school districts over the past 40 years is that reorganization into larger units can provide more effective and economical education. Such efforts are specifically needed in some metropolitan areas where school districts often are extremely unequal in size and overlap lines of political jurisdictions. By pooling resources and by providing special services for all students, metropolitan desegregation could eliminate fiscal inequities that exist among districts within a given metropolitan area.

Transportation of students on a metropolitan-wide basis need not be excessive. For example, in Charlotte-Mecklenburg County, North Carolina, the desegregation plan involved a maximum travel time of 35 minutes. Prior to desegregation children were transported for an average trip of more than one hour. Metropolitan plans may entail only modest busing because city-suburban political boundary lines have frequently separated nearby schools that are opposites in racial makeup but which could easily and effectively be joined for desegregation purposes. Moreover, metropolitan-wide remedies like school consolidation approaches promote efficiency and economy. In addition, recent research by Diana Pearce of the Center for National Policy Review at the Catholic University of America and by the Kentucky Commission on Human Rights indicate that metropolitan-wide school desegregation may contribute to housing desegregation—a promising development—that ultimately could lead to a reduction in the need for transportation of students for desegregation purposes.

RECENT EXECUTIVE BRANCH DEVELOPMENTS

Recent decisions by the Department of Justice in pending cases concerning educational opportunity and school desegregation are of serious concern.

We are disturbed by the fact that the Department of Justice has changed its position in the case of *State of Washington* v. *Seattle School District No. 1.* The United States as intervenor has successfully challenged up through the U.S. Court of Appeals the constitutionality of a Washington State initiative prohibiting student assignment to schools beyond schools nearest or next nearest the student's home except where such assignment was made for health, safety, or special education purposes or in response to inadequate or unfit conditions. The opinions of the lower Federal courts make clear that the initiative was a reaction to voluntary efforts by three local school districts to cure a substantial racial imbalance in their public schools that was caused by persistent patterns of housing segregation. Nonetheless, the United States through the DOJ is now supporting the constitutionality of the statute and has urged the Supreme Court to review the case as an example of a valid exercise of State constitutional authority over public education. The Justice Department in its brief urged review "[e]specially in light of the decade of judicial and educational experience since *Lee,* we believe the Court should now give plenary consideration to this issue, partly for reasons explained by Justice Powell in *Keyes* v. *School District No. 1,* . . ." It is significant that one of the pages referenced by the Departmental brief, the same Justice, Lewis F. Powell, Jr., writes:

"In a pluralistic society such as ours, it is essential that no racial minority feel demeaned or discriminated against and that students of all races learn to play, work, and cooperate with one another in their common pursuits and endeavors. Nothing in this opinion is meant to discourage school boards from exceeding minimal constitutional standards in promoting the values of an integrated school experience."

We believe that this statement points out in an exceptionally effective way why the Federal government should be in the vanguard in insisting that states should not be permitted to erect roadblocks that prevent the integration of the Nation's public schools.

In a second reversal of a prior position, the Department of Justice submitted a joint statement with the Chicago Board of Education on August 28, 1981, to the U.S. District Court approving a desegregation plan developed by the Board of Education that the Department rejected as "incomplete" a month earlier. In particular, Justice Department lawyers in July had objected that the plan would not achieve systemwide school desegregation by September 1981 as required by a consent decree and did not contemplate undertaking mandatory desegregation measures including busing until September 1983 after voluntary measures had been tried and failed. The signing of the joint statement by the Justice Department means that the Department has now accepted these fundamental flaws of the Board's plan.

Also, in August, the Department of Justice elected not to appeal to the Circuit Court of Appeals the dismissal of its efforts to achieve multidistrict school desegregation in a suit against the Houston Independent School District and other districts.

This Commission has followed with great interest the legal developments following the enactment of a Texas statute that permits local school districts to deny enrollment in the public schools to alien children whose parents have not been lawfully admitted into the country or to charge them tuition if they do enroll, and prohibits local school districts from receiving any state funds for the education of such children. While the statute does not concern desegregation, we believe that the same principle of equal access to public education is completely in harmony with the constitutional mandate to desegregate our nation's schools. We were pleased therefore when two district courts and the court of appeals ruled the statute unconstitutional in *Plyer* v. *Doe* and *In Re Alien Children.*

The United States took a leadership role in challenging the constitutionality of the Texas statute in the lower courts. The United States intervened as a plaintiff at the district court level in *In Re Alien children* claiming that the statute was invalid under the Equal Protection Clause and pressed the same argument in an *amicus curiae* brief before the court of appeals in *Plyler* v. *Doe* and subsequently moved for summary affirmance in *In Re Children.* The Justice Department filed a brief with the U.S. Supreme Court in those cases asserting that "whether local school districts are constitutionally required to admit [school-age children who entered the country illegally or whether the State of Texas is obligated to pay for their education] are issues that affect the State of Texas and the school districts, not the United States." It is our position that an issue involving the right, under the Constitution, of equal access to public education affects not only the State of Texas but all the people of our nation.

Taken together, the positions espoused by the Department of Justice in these four cases appears to reflect a change of policy which cannot help but be of deep concern to those who believe that, as the Supreme Court found in *Brown* v. *Board of Education*, segregated school facilities are inherently unequal.

RECENT CONGRESSIONAL ACTIONS

The Commission views any action by Congress to weaken or eliminate an essential means for accomplishing school desegregation as a move that would severely undermine the real gains that have been made since 1954 and as a retreat from the constitutional imperative to end government racial discrimination in the United States.

Consistent with this view, the Commission has strongly opposed the Eagleton-Biden amendment that now prohibits the Department of Education from taking action to compel the transportation of students to schools other than schools which are nearest the students' home as a means of remedying unconstitutional school segregation. The Federal courts refrained from striking down this legislation because it does not bar the Department of Education from forwarding those school desegregation cases that require pupil transportation to the Department of Justice for litigation.

At the last session of the Congress, the House of Representatives passed the Collins amendment which prohibits the Department of Justice from bringing any suit "to require directly or indirectly the transportation of any student to school other than the school which is nearest the student's home. . . ."; the Senate concurred in this action. This Commission recommended to the President that he veto the bill on the grounds that coupled with the Eagleton-Biden Amendment, both the Executive Branch and Judicial Branch would be impeded in their efforts to prescribe effective remedies to implement the Constitution as interpreted by the Supreme Court in *Brown* and subsequent decisions. The President took such action.

At this session of the Congress the House of Representatives has voted to attach the Collins Amendment to the Department of Justice appropriation authorization bill. The Senate has passed the Helms amendment which tracks the Collins amendment but also applies to pending litigation. The Senate also passed the Johnston amendment that prohibits Federal courts from ordering the assignment or transportation of students to a school other than the school which is closest to their residence unless, among other limitations, the daily round trip will not exceed 30 minutes or 10 miles.

The Commission on Civil Rights continues to oppose the Collins and Helms Amendments for the same reasons that we included in our recommendation to President Carter for a veto last year's appropriation bill.

We likewise oppose the Johnston bill on constitutional grounds. Congressional attempts to limit the authority of the Federal courts when Congress disagrees with judicial decisions threaten the necessary independence of the Federal judiciary. The ultimate effect of such a legislative approach would be to negate constitutional protections in piecemeal fashion by eliminating the available remedies for violations of these provisions. If passed by the Congress, the Johnston amendment would stand for the proposition that whenever Congress objects to actions taken by the Federal judiciary to vindicate constitutional rights, it can simply move to strip the Federal Courts of their authority to remedy the particular constitutional violation in question. We were encouraged when he did veto the legislation.

I am offering for the record a letter to Senator Lowell Weicker from the Commission setting forth more fully our analyses and concerns with respect to these proposals.

This committee also has pending before it H.J. Res. 56, a proposed constitutional amendment to prohibit Federal courts from assigning or excluding any person from any school on the basis of race, religion or national origin. It is clear that this proposed amendment is designed to make it impossible for federal courts to break up segregated school systems by reassigning students. This strikes at the heart of the remedial measures called for by *Brown* v. *Board of Education*. Its passage would undermine the foundation on which civil rights rests in this country in the same manner as did the "separate but equal" doctrine of *Plessy* v. *Ferguson* in the post civil war period. We cannot conceive of this Nation adding to its constitution an amendment designed to undermine the rights established in another portion of the Constitution.

CONCLUSION

As I noted earlier in my testimony, our 1976 report on desegregation of our Nation's public schools, "Fulfilling the Letter and Spirit of the Law," provided conclusions which still hold true today. Desegregation can and does work, and one of the primary ingredients of this success is positive local leadership on the part of those who hold public offices at the Federal, State and local levels.

Effective local leadership is crucial. But the desegregation effort also requires that Federal officials exercise their responsibility to provide leadership in implementing the constitutional mandate to desegregate the Nation's public schools. In passing the Civil Rights Act of 1964, the legislative branch provided leadership and provided the Executive branch with effective means for implementing the mandate of *Brown*. The Federal courts have likewise provided very effective means means for implementing the same mandate.

We know that the implementation of this mandate has disturbed the status quo. This in turn has created opposition. When the passage of the 13th, 14th, and 15th amendments to the Constitution created similar opposition in the Post Civil War period, there was a retreat in the civil rights field that lasted almost 100 years. We hope that leaders in both the executive and legislative branch will think long and hard before they retreat from their civil rights responsibilities under the Constitution by undermining the foundation on which implementation of the mandate under *Brown* must rest. The passage of the proposed constitutional amendment and the pending appropriation-authorization riders, or the failure to pursue vigorously the remedies against segregation which are available through the courts would lead to such a result. There is no middle ground. Either we are for desegregation and a system of education that provides equality of opportunity, or we are for continued segregation and a system of education that makes a mockery of our Constitution.

TESTIMONY OF DR. ARTHUR S. FLEMMING, CHAIRMAN, U.S. COMMISSION ON CIVIL RIGHTS; ACCOMPANIED BY JOHN HOPE III, ACTING STAFF DIRECTOR; KAREN McGILL ARRINGTON, EDUCATION MONITOR; AND PAUL ALEXANDER, ACTING GENERAL COUNSEL

Dr. FLEMMING. Thank you very much, Mr. Chairman.

On behalf of the Commission, may I express to you and those associated with you our deep appreciation for the leadership that led to the result that has been recorded in the House of Representatives as far as the extension of the Voting Rights Act is concerned.

As you know, as a Commission we have unanimously supported the extension of the act. We have been convinced, on the basis of our field studies, on the basis of hearings, that the act has been responsible for a tremendous service to the American people in dealing with not only the voting rights situation but opening up opportunities for dealing with many other issues in the field of voting rights.

And the votes recorded by the House of Representatives are certainly a source of encouragement to us as I know they are to the entire civil rights community. And we are very, very appreciative of the leadership that has led to that particular result.

I am grateful to you for your comments relative to the contribution of the Commission, and we will certainly see to it that the staff that worked so hard on that report become aware of those comments. That will mean a great deal to them also.

I am accompanied today by John Hope III, who is our acting staff director; Karen McGill Arrington, our education monitor; and Paul Alexander, who is our Acting General Counsel.

As you appreciate, Mr. Chairman, this Commission believes and has believed that school desegregation is the single most important issue confronting the Nation today in the field of civil rights. Any retreat in our efforts to achieve this goal that has been set for us by *Brown* v. *Board of Education* will seriously harm our efforts to move forward in other civil rights areas.

Consistent with this belief, the Commission is concerned about the following recent decisions by the Civil Rights Division of the U.S. Department of Justice:

First: To drop its efforts to seek an order which would require in Houston, Tex., the development and implementation of a metropolitan desegregation plan.

Second: To accept as adequate the Chicago school board's proposed initial steps toward desegregation when as recently as July 1981 the Department had advised the court that the plan was "incomplete."

Third: To change its position on a Texas State law which denies free public education to illegal alien children from opposition on constitutional grounds to no position.

And finally, to change its position on the state of Washington's antibusing law from opposition on constitutional grounds to support.

We are likewise concerned by the pending sharp reductions in appropriations for title I of the Elementary and Secondary Education Act and the Emergency School Aid Act, two provisions of law that in our judgment have made very significant contributions to the area of desegregation.

Also, the Commission is very much concerned about the following actions by the Congress:

First, insistence by both Houses of Congress over the past 4 years on inclusion of an amendment to education appropriations which prohibits the use of funds to require school desegregation when the transportation of students to a school other than the school nearest the student's home would be required.

Next, the passage by the House of Representatives of the Collins amendment to the Department of Justice's authorization bill which would deny to the Department the right to spend funds to bring school desegregation cases that require transportation of students beyond the school nearest to the student's home.

Next, the passage by the Senate of the Helms amendment to the Department of Justice's authorization bill which would deny to the Department the right to spend funds to bring, or maintain, school desegregation cases that require transportation of students beyond the school nearest to the student's home.

Next, the passage by the Senate of the Johnston amendment to the Department of Justice's authorization bill which seeks to limit the instances when Federal courts could order student transportation and the time and distance of such transportation in school desegregation cases.

Taken together, these actions can be interpreted in only one way; namely, serious efforts are underway to undermine or to completely block programs for desegregating public school systems.

We welcome, therefore, the decision of this committee to conduct a thorough investigation of the status of desegregation in our public schools.

I am filing for the record a statement of the Commission's views on desegregation, a statement which I will now summarize.

The Supreme Court of the United States in *Brown* v. *Board of Education* ruled that segregated school facilities are inherently unequal and held that State-sanctioned dual school systems deny minority children the right to the equal protection of the laws guaranteed by the 14th amendment to the Constitution.

Segregated school facilities are still inherently unequal. They still deny children and young people equal educational opportunity. Segregated school systems which are the outgrowth of actions by public officials must be desegregated if the constitutional rights of the young persons who are dependent on those schools are to be enforced.

School desegregation has already taken place successfully in many communities across the country. We discuss some of those successes and the reasons for them in our prepared statement.

One of the most encouraging developments in the area of desegregation has been the manner in which the Federal courts, over the years, have implemented the basic holding in *Brown* v. *Board of Education*.

Brown heralded the demise of the entire legal framework that had sustained and fostered segregation in almost every aspect of American life.

In the years following *Brown*, the Supreme Court has carefully clarified the constitutionally mandated remedy for officially sanctioned public school segregation.

Once it is determined that a school system is segregated, school officials have the affirmative duty to eliminate its effects.

If racially neutral policies do not result in public school desegregation—and they rarely, if ever, do—color-conscious remedies must be employed.

Frustrated with the lack of progress in achieving school desegregation, the Supreme Court in 1971 focused on remedial methods by which school offficials might dismantle unconstitutionally segregated school systems.

The Court—and this was a unanimous Court—in *Swann* v. *Charlotte-Mecklenburg Board of Education* upheld the use of busing as a part of a desegregation plan.

The Court stated that pupil transportation by bus is a "normal and accepted tool of educational policy," that bus transportation "has been an integral part of the public education system for years and was perhaps the most important factor in the transition from the one-room schoolhouse to the consolidated school," and that although busing is only one tool among many, "desegregation plans cannot be limited to the walk-in school."

This observation is borne out by the fact that slightly over 50 percent of schoolchildren are bused to school, and of this percentage, less than 7 percent are bused for desegregation purposes.

In 1972, the Supreme Court in *Keyes* v. *School District No. 1, Denver*, examined the concept of de jure segregation and held that in addition to laws requiring segregation, the concept includes deliberate actions taken by school officials, local officials, or State officials that create or support dual systems of education. Since this decision was rendered, any school district that has been found to be segregated as a result of actions taken by public officials has been under the same obligation to desegregate as are those that were segregated by State law.

The Federal courts have imposed orders requiring the reassignment and, where necessary, the transportation of students only where a violation of the 14th amendment by Government officials has been judicially determined and where other school desegregation methods have proven inadequate to remedy the violation. Judges have ordered the implementation of specific remedies only when school districts have failed or refused to propose plans that will effectively eliminate the vestiges of segregation in their schools.

The meaning of *Brown* must be clearly understood by those examining the process of school desegregation.

It does not require quality education for all children, nor does it mandate racial balance in all of the schools in a school district.

Although school districts should seek, as a part of a desegregation plan, to improve the quality of education, they are not required constitutionally to do so. All they are required to do is to break up the segregated system.

The crux of *Brown* is simply this: Officially imposed segregation in education discriminates against minority children and denies them the right to equal educational opportunity which is guaranteed by the U.S. Constitution.

Desegregation is the constitutional remedy mandated by the Supreme Court.

In interpreting this mandate, Judge John Minor Wisdom noted, "The only school desegregation plan that meets constitutional standards is one that works."

Stated another way, a right without an effective remedy is meaningless.

What has happened to segregation in our schools since 1954?

In 1978 more than 38 percent of black students attended schools that were at least 50-percent majority; the corresponding figure in 1968 was 23 percent. In the South, where desegregation efforts have been concentrated, the percentage of black students attending schools that were at least 50-percent majority rose from 18 percent in 1968 to 44 percent in 1978.

Some school districts have not only implemented student reassignment plans but also have worked to achieve the spirit of the law by integrating all aspects of the school environment.

The Commission's experience in the area of school desegregation spans 20 years and includes hearings, reports, and studies on the subject. Here are some of our principal observations:

Affirmative leadership and support at the community level are essential for the successful implementation of school desegregation.

This conclusion was underlined many times in our 1976 report, "Fulfilling the Letter and Spirit of the Law," a comprehensive study of the desegregation of the Nation's public schools.

Next, the implementation of desegregation plans should include reassignment of present staff and should be accompanied by the development and implementation of an affirmative action plan for all school personnel.

Affirmative recruitment and reassignment of administrative, faculty, and service personnel are important when it comes to implementing a desegregation plan and because it reflects the commitment of school officials to the objective of achieving a truly integrated system.

Next, the implementation of desegregation plans has positive effects on the lives of both minority and white students. It is clear that only in learning together as equals, and in sharing knowledge and experiences, can children acquire the values and understanding which will prepare them to become fully contributing members of our complex pluralistic society. A white student and a black student, testifying at a Commission hearing in Boston, Mass., discussed their experiences with school desegregation. One student stated:

> The benefits of . . . desegregation are that you are educated alongside every other American child. You are not educated just about yourself, you are educated to what they are, who they are, what they are about, just as they are educated about you . . . .

The other stated:

> One . . . benefit . . . is that we get to live together with one another. It is not just all whites living with all whites. It is everybody together, all races, colors, creeds, and religions, and that is one main benefit I see.

Finally, the implementation of school desegregation has helped to strengthen the communities in which it has taken place. The direct beneficiaries of school desegregation are, of course, the students. But when local communities approach the desegregation process with the determination to make it effective and successful, both students and other community members benefit. Charlotte, N.C. is an outstanding example.

The Charlotte Observer has noted:

> Prior to busing, Charlotte was much more segregated than it is now. Not only were its schools identifiably white or black, but the community itself was divided along racial lines . . . . Through the use of busing, schools are no longer black or white, but are simply schools . . . . The center city and its environs are a healthy mixture of black and white neighborhoods. In fact, there is reason to believe school desegregation has encouraged neighborhood desegregation to a degree that allows a reduction in busing.

Finally, if we are to achieve the national goal of desegregation, we must move more rapidly than we have to develop and implement metropolitanwide school desegregation remedies. The Supreme Court in *Milliken* v. *Bradley* indicated that a metropolitanwide remedy could be ordered when the evidence presented shows that the constitutional violations have infected in a significant way all of the school districts sought to be included in the metropolitan decree. In recent years such violations have been demonstrated and interdistrict remedies have been ordered by the courts. Wilmington, Del., and Indianapolis, Ind. are examples of this.

At the beginning of my testimony I identified recent decisions in both the executive and legislative branches which in our judgment can only be regarded as a part of a regressive movement in the field of civil rights.

In the statement we have filed with the committee we discuss these developments in detail.

We urge these developments be regarded not as isolated incidents but as a part of a well-organized strategy to sidetrack programs designed to substitute a desegregated school system for a segregated system.

It is clear that this strategy of undermining the remedial measures called for by *Brown* would be given tremendous impetus if House Joint Resolution 56 should be submitted to the States. We cannot conceive of this Nation adding to our Constitution an amendment designed to undermine rights established in another portion of the Constitution.

We know that the implementation of the mandate in *Brown* v. *Board of Education* has disturbed the status quo.

This in turn has created opposition to desegregation.

Those who oppose desegregation have developed a strategy designed to weaken or eliminate methods which must be used if segregated schools are to be broken up.

The passage of the thirteenth, fourteenth, and fifteenth amendments to the Constitution following the Civil War also disturbed the status quo.

This also brought about opposition to the implementation of these amendments.

The opposition was able to develop a strategy that led to a retreat in the civil rights field that lasted almost 100 years.

Our Commission hopes that leaders in both the executive and legislative branches will think long and hard before they retreat from their civil rights responsibilities by undermining the methods which must be used if the mandate spelled out in *Brown* is to be implemented.

Brown does not provide for any middle ground. Either we are for continued segregation and a system of education that makes a mockery of our Constitution, or we are for desegregation and a system of education that provides for equality of opportunity.

Thank you, Mr. Chairman.

Mr. EDWARDS. Thank you, Dr. Flemming.

I am certain that I have never read or listened to a more explicit, important, and accurate statement of the issue that confronts this committee and Congress than this. I'm sure that a number of your lawyers and experts had a hand in it, and I want you to compliment them. It is really quite a document.

Dr. FLEMMING. Thank you. I appreciate it very much.

Mr. EDWARDS. It really says it all. And the full statement, of course, is very helpful, too.

Dr. Flemming, can you describe the kinds of deliberate acts of school officials that created or supported school segregation and which provided the justification for court-ordered school desegregation plans?

Any of the witnesses can answer.

What kinds of deliberate acts did school officials do?

Dr. **Flemming**. Of course, your question relates particularly to the cases which have arisen in the northern cities. In the South we were dealing with a situation where the legislatures had ordered a segregated system. But some of the actions that were taken by school officials in the assignment of students were designed to make sure that the minority students would go to particular schools and that white students would not have to go to those schools.

We know in the northern cities, as was the case in the southern cities, there was pupil transportation prior to *Brown* v. *Board of Education* and prior to the issuance of desegregation orders. But that pupil transportation would take black students beyond neighborhood schools to the schools to which they had been assigned in order to insure that they would not attend schools with white students, and in order to make sure that they would attend schools that were predominantly, if not 100 percent, black.

Some school officials used the authority that they had to assign students for the purpose of perpetuating a segregated system.

And, of course, part and parcel of that was the way in which they would draw their attendance districts within the overall school district. I think that is one of the principal devices that they used.

In addition to that, of course—your question related to what school officials did?

Mr. **Edwards**. School officials, not the states.

Dr. **Flemming**. Of course, we can go beyond that and think in terms of what other public officials have done which has likewise contributed to the segregated school system, I mean those officials which have taken actions which have contributed to segregated neighborhoods, and the segregated neighborhoods in turn have contributed to the segregated school system.

Mr. **Edwards**. Well, we have segregated housing patterns, and I suppose a school official would say, "Well, the schools conform to the housing patterns. The housing patterns are segregated and therefore the schools are segregated."

Dr. **Flemming**. That's right.

Mr. **Edwards**. That is not by the school officials. What, in addition to that, did they do to violate the law?

Dr. **Flemming**. Of course, when it comes to the question of locating new schools, they will locate the new schools in such a way as to perpetuate the segregated system.

When it comes to the expansion of existing schools, that is, enlarging minority schools rather than transferring the minority students to nearby white schools, that has taken place in certain communities.

Then, also, you have situations where the school board has refused or failed to relieve overcrowding at white schools by transferring white students to nearby minority schools where space was available.

Obviously, the discriminatory hiring of teachers and administrators has also contributed to the perpetuation of the system as well as the discriminatory assignment of teachers and administrators.

More recently, of course, we have seen decisions made relative to the closing of schools because of reduced enrollments, particularly in elementary schools, that have contributed to a segregated rather than a desegregated system.

All of these methods have been used at one time or another.

Mr. **Edwards**. The courts have ruled that certain cities, certain school districts, certain officials, did in particular all or some of those acts.

Dr. **Flemming**. That is right. One of the best records along that particular line—I will ask Mr. Alexander to double-check me on this, but I think one of the best records developed by a lower court on this line was the U.S. District Court in Columbus, Ohio. I read the opinion of the District Court judge, and he went way back to the beginning as far as Columbus was concerned and brought it right down to the present. On the basis of the evidence that had been presented in his court, he identified very clearly all of the steps that had been taken by the school officials which had resulted in a segregated system.

The fact that he had developed such a fine record I think made it possible for him to write a very convincing opinion. Also the Circuit Court of Appeals wrote an excellent opinion in that particular case, and the Supreme Court had no real difficulty in upholding the findings of both the District Court and the Circuit Court of Appeals.

That carries me back to the statement I made relative to metropolitan desegregation. So often when we talk about that, people talk about *Milliken* v. *Bradley*. The only difficulty with *Milliken* v. *Bradley* was that those who were contending that the suburban districts should be brought into the plan had failed to develop this kind of a record insofar as it related to the suburban school districts. And the court made it very clear that if a record had been developed along this line, they probably would have come out differently than they did in their opinion.

And, of course, the cases in Wilmington, Del., and Indianapolis, Ind., indicate the willingness to recognize the metropolitan segregation where a good record has been built.

Mr. **Edwards**. Mr. Alexander, would you like to comment?

Mr. **Alexander**. Dr. Flemming mentioned the Columbus decision in which the court found discrimination in drawing of attendance, discriminatory location of new schools, the school board's failure to relieve overcrowding in white schools where there were spaces in minority schools, discriminatory assignment of teachers, discriminatory promotion of teachers and administrators, and adoption of an open enrollment system and free transfer policy which further forced segregation of schools specifically.

I think that the Columbus court's opinion is not unique. It is typical of the extensive findings of fact that are found in most of the northern cases.

Judge Garrity's opinion in Boston is similarly extensive and has similar findings.

One item which was not mentioned is the frequent use of portable classrooms which is a device to enlarge minority schools when open space is available in majority schools, and vice versa. There are extensive findings on the use of portable classrooms in the Boston school system to encourage segregation in the schools.

This is typical of all the district courts and lower federal courts.

Dr. Flemming. Ms. Arrington might like to add to these comments. She has prepared for us something I think would be helpful to have in the record. It is an exhibit which is the type of discrimination found by the court, and then it lists the various types of discrimination and indicates what the findings were in the Benton Harbor case, Boston, Denver, Dayton, Detroit, Lansing, and Milwaukee.

Mr. Edwards. If there is no objection, it will be made part of the record.

[Committee insert follows.]

Why Must Northern School Systems Desegregate?: A Summary of Federal Court Findings in Recent Cases

Prepared by the

Center for National Policy Review
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INTRODUCTION

One of the least understood areas of law is the basis on which judges order the desegregation of public school systems in the North and West. When the Supreme Court issued its landmark decision in Brown v. Board of Education in 1954, its direct impact was on the school systems in 17 Southern and Border states which had state statutes commanding or authorizing the strict segregation of public schools by race. In recent years, however, federal and state courts have ordered the desegregation of public schools in Northern and Western states which did not have laws or explicit policies requiring racial segregation either in 1954 or at the time the lawsuit was initiated.*

There is a widespread impression, often fostered by the media, that the reason judges have ordered desegregation in these districts is that housing patterns are segregated and that the practice of geographical or neighborhood assignment must be changed in order to remedy "racial imbalance" in the schools. This impression is wrong. The Supreme Court and the lower federal courts have made it clear that before they will determine that there is a violation of the Constitution and order the desegregation of public schools, they must find purposeful action on the part of school officials which created or maintained segregation in the schools.

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* Many Northern and Western states did have such laws in the past but repealed them before 1954.

This memorandum describes the kinds of deliberate segregative acts by public school officials that have led courts to require desegregation. It draws upon findings of fact made in recent judicial opinions that have required desegregation. Cases are cited in an alphabetical code. A more complete listing of cases with a checklist of types of discrimination found is incorporated in Appendix A.

HISTORY OF OFFICIAL SEGREGATION

Although statutes requiring or authorizing segregation are generally thought to be a Southern phenomenon, many Northern states enacted laws authorizing public school segregation after the Civil War and did not repeal them until some time during the 20th Century. Indiana kept its statute on the books until 1949:

> In about 1868 Indianapolis erected a new school house and anticipating the 1869 legislation [providing, for the first time, for the education of Negros, but in separate schools] assigned the old building on Market Street for the education of Negro children. A separate elementary school was opened there in the fall of 1869. Thus at the very inception of public education for the Indianapolis Negro child, he was segregated by virtue of state law.. [t]he official policy of the State of Louisiana and of its agent the defendant School Board was one of de jure separation of its Negro and white students prior to 1949. [Emphasis added] (Case A, p. 664).

In other places, segregation was maintained by explicit school board policy. In New Rochelle, New York, a member of the Board of Education testified that there had been a tradition of a Negro School in New Rochelle for approximately one hundred years. Lincoln School served as the "Negro School" and district lines were regularly gerrymandered to contain the Negro population. (Case B, p. 184, 185). In 1957, the school board commissioned the report, "Racial Imbalance in Public Education in New Rochelle, New York," (The Dobson Report). Despite the warning of the Dobson Report that continuation of the Lincoln School would perpetuate segregation, the board proposed rebuilding of the Lincoln School on its original site. (Case B, p. 190, 191).

NEW SCHOOL CONSTRUCTION

Construction of new schools provides opportunities for the creation and perpetuation of a segregated school system. School boards have manipulated the location, size and grade structure to create racially identifiable schools. Other techniques have included selective use of building additions, and portable classrooms to keep a growing black population contained in the same segregated school.

Size and Location

School boards can easily tailor the size and location of new schools to residential segregation patterns. In Minneapolis:

> The size and location of Bethune School, which was constructed in 1968, were intended to have the effect of continuing the pattern of racially segregated schools which had existed in Minneapolis since at least 1954. From its inception it was clear that the location of the school would cause it to have an extremely high Black enrollment. In fact, since its doors were opened, it has always been at least 50% Black. By constructing Bethune with a capacity of 900 instead of the 500-600 optimum which is generally used by the District, the defendant intentionally increased segregation. Building a school of that size on the near north side insured that most of the children in that predominantly Black area of the city would go to one school rather than spilling over into neighboring schools with larger majority enrollments. Indeed, the name itself is evidence of the defendant's intention that this was to be a Black school. It is hard to imagine how a school could be more clearly denominated a "Black school" unless the words themselves had been chiseled over the door. (Case C, p. 803.

School boards often reject alternative school sites which would have drawn a racially integrated student population. In Pontiac, Michigan, the Board of Education constructed Bethune, a new black elementary school, to relieve the overcrowding at Bagley, an existing black school. Webster, a nearby white elementary school, also suffered from overcrowding and a single new school could have alleviated the problems of both schools. Although sites which would have accommodated the excess populations of both schools were considered the Board rejected them. (Case D, p. 740, 741). As in Minneapolis, the choice of the name Bethune, in honor of Mary McLeod Bethune, a famous black American educator, indicated the board's intention to create an identifiable black school.

Shortly after the construction of Bethune, the adjacent white elementary school, Whitfield, became overcrowded.

> To alleviate that situation without jeopardizing the pale complexion of the school, the Board of Education erected the Irving School. Irving School has a total attendance of 167 students; it is the smallest full elementary school within the Pontiac School system. It has been located in such a fashion as to serve solely whites. It could have been and should have been located otherwise so as to achieve the racial balance for which the school board expressly strived. (Case D, p. 741).

New school construction often stifles integration brought about by shifting residential patterns. The Clark County School district in Las Vegas built new schools in both the black neighborhoods and the white suburbs while it closed schools in border areas which would have drawn an integrated student population. (Case E, p. 107).

As the Supreme Court has pointed out "[p]eople gravitate toward school facilities just as schools are located in response to the needs of people. The location of schools may thus influence the patterns of residential development of a metropolitan area and have important impact on the composition of inner city neighborhoods." Swann v. Charlotte Mecklenburg Board of Education, 402 U.S. 1 (1971).

In Kalamazoo, Michigan, the Court found:

> In the late 1950s and early 1960s, the board [of education] went into an extraordinarily close association with a real estate developer in the development of Arcadia subdivision. The board not only purchased a school site in Arcadia before many houses were built there, but allowed the developer to put up a sign advertising the fact that a new school was to be built in the subdivision. As a result, many whites were drawn to the area, and, predictably, Arcadia School was predominantly white. (Case F, p. 202).

Grade Structure

School districts have manipulated the grade structure of schools to thwart integration. In Omaha, the district converted its lower schools from a kindergarten through eighth grade elementary school structure to a kindergarten through sixth grade elementary school and a seventh and eighth grade junior high school system. The integration of junior high school students from elementary schools of different racial compositions was carefully avoided.

> ... conversion was achieved in a manner which minimized the necessity of assigning white seventh and eighth graders to the two identifiable black junior high schools: Mann and Tech. Two basic techniques brought

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> about this result: (1) delaying the conversion of predominantly white K-8 schools which would be logical feeders for Mann and Tech; and (2) granting options to the seventh and eighth graders to attend more distant identifiably white junior high schools, when the conversion did take place.

Under the option, only 5 of 169 eligible white students chose Tech. (Case G, p. 541).

The school board in South Holland-Phoenix, a suburb of Chicago, abandoned a proposed structural innovation because of possible integrative effects. The board felt it educationally desirable to institute an upper grade center for the district. The soundest plan would have utilized the predominantly black Coolidge school and dispersed its grade three through six students throughout the district, which would have increased minority enrollment in the other schools. The Board responding to community pressure against desegregation, rejected Plan C. (Case H, p. 796). In Boston the school committee used differing grade structures for blacks and whites as one technique for creating racially identifiable schools.

> Black students generally entered high school upon completion of the eighth grade, and white students upon completion of the ninth. High school education for black students was conducted by and large in citywide schools and for white students in district schools. White students were generally given options enabling them to escape from predominantly black schools; black students were generally without such options. The advantages and disadvantages of the introduction of middle schools were experienced almost entirely by one of the races, the black. The advantages and disadvantages of coeducation were experienced mainly by one of the races, the white. (Case I, p. 448).

Annexes and Portable Classrooms

Construction of additions to existing schools has also been used to promote segregation. In Indianapolis,

> The defendant Board has constructed numerous additions to schools since 1954; more often than not the capacity thus created has been used to promote segregation. It has built additions at Negro schools and then zoned Negro students into them from predominantly white schools; it has built additions at white schools for white children attending Negro schools; it has generally failed to reduce overcrowding at schools of one race by assigning students to use newly built capacity at schools of the opposite race. The Board has also constructed simultaneous additions at contiguous predominantly white and Negro schools, and has installed portable classrooms at schools of one race with no adjustment of boundaries between it and neighboring schools of the opposite race.
>
> The Board has also constructed additions to large, predominantly Negro elementary schools when desegregation would have resulted from adding classrooms to nearby, smaller predominantly white schools. The large schools have often had inadequate sites. (Case A, p. 667).

The Boston School Committee actually sacrificed state funds for new construction in order to avoid state guidelines on racial imbalance in public schools.

> Significantly, many of the annexes that were not subjected to state scrutiny, because constructed without state financial aid of any sort, opened identifiably black. If state aid had been applied for when these facilities were being planned, the state board would routinely have inquired about their probable racial imbalance. Evidently, the defendants preferred not to have to respond to that kind of inquiry . . . it is apparent that, in the matter of facilities utilization and new structures, the defendants were covertly resisting the elimination of racial imbalance and endeavoring to perpetuate racially segregated schools. (Case I, p. 428, 429).

Portable classrooms provide a quick solution to overcrowding of single race schools, and an alternative to integrative boundary changes. In Denver, the purpose of the portables was to relieve overcrowding at black schools without rezoning districts or reassigning students.

> The building of 28 mobile units in the Park Hill area in 1964 (at the time there were only 29 such units in all of Denver) resulted in a further concentration of Negro enrollment in Park Hill schools. The retention of these units on a more or less permanent basis tended to continue this concentration and segregation. (Case J, p. 285).

Students often are required to suffer overcrowding because logical steps to relieve it would also bring about racial integration, something the school board wants to avoid. Judge Garrity, in the Boston opinion, found 8 predominantly white high schools and junior highs to be significantly overcrowded and 7 predominantly black high schools and junior highs to be significantly underutilized. Elementary schools presented a similar pattern. In one instance, the School Committee assigned white students to another overcrowded, more distant school, rather than to a nearby black school with available seats. (Case I, p. 426).

Discriminatory school construction policies were also found by courts in Oxnard, Pasadena and San Francisco.

DISCRIMINATORY STUDENT ASSIGNMENT

Gerrymandering Attendance Zones

School boards sometimes exercise great ingenuity in designing school attendance zones and pupil assignment policies. Instead of counteracting residential segregation or adopting a neutral policy, boards use zoning to exploit residential segregation. School districts may exacerbate residential segregation, too. Since the racial composition of schools influences residential choice, practices leading to racial segregation in the schools may also encourage racial isolation of neighborhoods.

Some districts capitalize upon ready-made residential segregation. In Manhasset, an affluent suburb of New York City, the Board of Education effectively isolated the pocket black ghetto. All the black students attended one of three schools which served only 162 students, 12% of the total student population. The Manhasset schools were totally segregated until a successful desegregation lawsuit was brought in 1964. (Case K, p. 212).

Larger districts with more complicated housing patterns sometimes find they must exercise greater imagination in drawing boundary lines if they wish to maintain segregation. Indianapolis, Indiana, is one of dozens of school districts found to have utilized discriminatory zoning policies.

> At the close of the 1952-53 school year the Board drew fixed boundary lines for all elementary schools. These boundary lines were drawn with knowledge of racial residential patterns and the housing discrimination underlying it. Not only did the Board not attempt to promote desegregation, but the boundary lines tended to cement in the segregated character of the elementary schools. In some instances segregation was promoted by drawing boundary lines which did not follow natural boundaries or were not equidistant between schools. In some instances optional attendance zones between white and Negro schools were adopted in racially integrated neighborhoods. From 1949 to 1953 the high school assignments were maintained in the same segregatory patterns and the creation of the predominantly white Harry E. Wood High School on the Manual High School campus helped perpetuate the segregation of nearby Crispus Attucks. (Case A, p. 666).

The court found that of the 350 zone changes which the board made between 1954 and 1971, more than 90% promoted segregation. (Case A, p. 670).

Optional Attendance Zones

Optional attendance zones are a technique often employed by school boards to enable whites to opt out of schools that would otherwise be racially mixed. Detroit provides a classic example of the use of optional zones to create schools identifiable by race and religion.

> During the decade beginning in 1950 the Board created and maintained optional attendance zones in neighborhoods undergoing racial transition and between High School attendance areas of opposite predominant racial compositions. In 1959 there were eight basic optional attendance areas affecting 21 schools. Optional attendance areas provided pupils living within certain elementary areas a choice of attendance at one of two high schools .... The natural, probable, foreseeable and actual effect of these optional zones was to allow white youngsters to escape identifiable "black" schools. There had also been an optional zone (eliminated between 1956 and 1959) created in "an attempt to separate Jews and Gentiles within the system," the effect of which was that Jewish youngsters went to Mumford High

> School and Gentile youngsters went to Cooley. (Case L, p. 587, 588).

Optional zones may be easily manipulated to adjust to changing residential patterns, as was found in the Denver schools.

> One of the 1962 boundary changes which was adopted assigned the Hallett-Philips optional zone to Philips. This reassigned zone was predominantly Anglo and Philips at the time virtually 100% Anglo. There was no problem of overcrowding at either Hallett or Philips. All that was accomplished was the moving of Anglo students from a school district which would gradually become predominantly Negro to one which has remained predominantly Anglo. (Case J, p. 293).

Open Enrollment and Transfers

School administrators also have used open enrollment and transfer policies to allow white students to leave predominantly black schools.

For many years Boston's open enrollment plan allowed white students to transfer out of black schools. Black parents seeking to transfer their children to white schools were usually discouraged by school officials. Despite pressure from the State Board of Education, the Boston School Committee refused for five years to prohibit transfers which aggravated racial segregation. When the Committee finally adopted such a prohibition, the numerous exceptions to the new transfer policy effectively continued to exacerbate imbalance. (Case I, p. 449, 450, 453).

School administrators employ individual transfers as an informal means of allowing white students to escape from predominantly black schools. In Omaha, during the 1970-71 school year, nearly

30% of the white student population assigned to identifiably black elementary schools transferred to white schools. In 1971-72, the percentage of white students transferring out of black schools increased to 32%. In the junior high schools, 61% of white students assigned to black schools transferred to white. (Case G, p. 540.)

Feeder Systems

A "feeder system" can be used to create segregated secondary schools by grouping together segregated primary schools. Since a secondary school usually draws a larger student body from a larger geographical area than a primary school, a boundary drawing that is reasonable often would result in integration. School boards bent on maintaining segregation avoid the line-drawing problem by "feeding" the student bodies of several primary schools of one race directly to a secondary school.

Boston schools utilized such a discriminatory "feeder" system. Graduates of white elementary schools were given seat preferences at white high schools and graduates of black lower schools were given seat preferences only at black schools. English High School in Boston demonstrates the racial impact of feeder pattern changes in school years 1967-68 and 1968-69. In 1967-68, when the first changes were made, English was 18.5% Black; in 1968-69, 56.3%; in 1969-70, 76% Black and 18.5% other minority; in 1972-73, English was 81% Black. During the 1967-68 1600 whites attended English. In September of 1969, only 15 white students enrolled as first year students at English. (Case I, p. 445, 446). The Morgan court concluded that "The only consistent basis for the feeder pattern designations, changes and deletions was the racial factor." (Case I, p. 446).

"Neighborhood School Policy"

Since neighborhoods often are ill-defined, school authorities sometimes say euphemistically that they are pursuing a "neighborhood school policy" when in fact they have simply drawn lines around a minority area for purposes of assignment. That is what happened in Manhasset. (Case K, p. 218).

Similarly, in the Boston school case, Judge Garrity discovered the hollowness of the 'neighborhood' defense.

> Several practices of the defendants were antithetical to a neighborhood school system: extensive busing, open enrollment, multi-school districts, magnet schools, citywide schools and feeder patterns. Additionally, the elementary district map does not show districting which would be consistent with a neighborhood school policy: schools are not located near the center of regular, compact districts, but rather near the edges of irregular districts requiring some students to attend a relatively distant school when there is another school within one or two blocks. (Case I, p. 473).

Other districts found to be employing discriminatory student assignment policies include Dayton, Ohio; Hillsboro, Ohio; Kalamazoo, Michigan; Las Vegas, Nevada; Minneapolis, Minnesota; New Rochelle, New York; Oxnard, California; Pontiac, Michigan; San Francisco, California; and Springfield, Massachusetts.

Busing

Busing, which is often decried when used as a means to correct segregation, has long been used to maintain segregation. Some school districts have regularly bused white students past nearby minority schools to more distant white schools and vice versa. Busing for segregation has continued despite the distance and, in some cases, overcrowding at the receiving schools. In Pasadena,

> From 1967 until 1969, while the school was closed temporarily due to structural deficiencies, the District transported all Linda Vista's [white] children in kindergarten and grades one through six three miles across the Colorado Freeway to San Rafael Elementary School, where the enrollment in 1967-68 was 457 white, one black and 11 other students. Five majority black elementary schools, three of them with more unused capacity than San Rafael are closer to the Linda Vista School than is San Rafael. (Case M, p. 507).

In Detroit, black school children traveled past nearby white schools to more distant, predominantly black schools. No white children were bused to black schools despite the underutilization of many black schools. Those schools with a student population at least 90% black contained a total of 22,961 empty seats. (Case L, p. 588).

Busing also has provided a convenient short-term means of segregation until segregation can be institutionalized with new construction or permanent boundary changes. Selective busing may also accommodate special interests in the school district. In an Illinois case evidence was presented to show that discriminatory busing was instituted to allow children of a local school board member to attend a distant white school rather than the minority school within walking distance of their home. (Case H, p. 795).

FACULTY ASSIGNMENT

Discrimination by school authorities in the assignment of faculty members to schools may be significant not only to teachers but to students as well. A school may be identified to the community as a minority or white school simply by assigning only staff of that race. Such discrimination also provides a good indicator of the objectives of the administrators of a school system. As the court noted in a Las Vegas case,

> ... teacher assignment is so clearly subject to the complete control of school authorities, unfettered by such extrinsic factors as neighborhood residential composition or transportation problems, that the assignment of an overwhelmingly black faculty to black schools is strong evidence that racial considerations have been permitted to influence the determination of school policies and practices. (Case E, p. 107).

Faculty segregation is accomplished by a variety of techniques. In Minneapolis,

> The principal has an absolute veto over any teacher coming into his or her school. While written reasons must be given for a rejection of a teacher seeking to transfer to a new school, apparently a principal need give no reasons for rejecting a new teacher in the District. It is obvious that a principal seeking to maintain an all white faculty at a majority school has little trouble in doing so. (Case C, p. 805).

In Buffalo, teacher assignments were clearly made on the basis of race.

> In 1970, fifteen elementary schools in the 85-100 percent majority range had no black teachers, while 63.3 percent of the black elementary teachers were concentrated in fifteen predominantly black schools. In 1973, nine elementary schools that were 85-100 percent white were without a single black teacher, and 57.6 percent of the nonwhite elementary teachers were assigned to fourteen predominantly black schools. (Case N, p. 82).

Discriminatory faculty policies were also found in the following school districts: Benton Harbor, Michigan; Denver, Colorado; Indianapolis, Indiana; Kalamazoo, Michigan; Omaha, Nebraska; Oxnard, California; Pontiac, Michigan; San Francisco, California; and South Holland-Phoenix, Illinois.

DIFFERENTIAL COURSE OFFERINGS

Tracking

Even when schools are physically desegregated, minority students may find themselves in segregated classrooms. For example, this comes about in systems where sharply different curriculums are offered to groups of students depending on assessments of their ability. In these situations, guidance counselors commonly route minority students into 'commercial' or 'general' rather than academic programs.

Different tracking systems may also reinforce the racial identifiability of black and white schools. In Benton Harbor, Michigan, two different methods of classification were used in the predominantly white and predominantly black schools. The district court ruled that:

> The tracking system as used at Benton Harbor Junior High School as differentiated from that used at Fairplain Junior High School and Hull Junior High School, results in a denial of equal opportunity to the students at Benton Harbor Junior High School to achieve the same level of education in junior high school and high school as is afforded to the students at Fairplain Junior High School and Hull Junior High School. This system is improper and denies equal opportunity to the children who are attending Benton Harbor Junior High School. (Case O, p. 241).

The tracking of students is sometimes begun at a very early age and students once classified in lower tracks find it difficult to escape. (Case P, p. 473, 512).

In deciding where to locate special programs, school officials have made decisions that have created or reinforced segregation. For example, a decision to terminate program at a predominantly black school can hasten the flight of white students. At Tech High School in Omaha, certain course offerings and extracurricular activities were dropped as enrollment decreased and the black population increased. Electronics was one course dropped, changed to another school, and culinary arts and auto body shop were added. By 1973-1974, Tech was almost 100% Black. (Case G, p. 544).

In Buffalo, a combination of course offerings and academic transfers hastened the 'white flight' from an integrated high school. In the 1960s, the East High School district included large numbers of Black and Polish families. East High School, though, did not offer Polish or Russian language courses, which were part of the curriculum of other Buffalo schools. "If there was any district in the Buffalo school system where a demand for Polish language classes existed, it was the East High School district and the Board of Education was well aware of this." (Case N, p. 34).

The School Board did allow transfers from East High School to other, predominantly white schools which did offer Polish and Russian. Many white students exercised this transfer option and East became predominantly black.

> At a board meeting on May 26, 1971, Superintendent Manch was specifically informed that South Park High School alone had 143 out of district students, 'generally from the East High School district,' studying Polish and Russian. The possibility that language transfers were contributing to East's predominantly black enrollment was raised as early as 1963 in a report by the Civil Rights Commission of the United States. Noting that East High at that time was predominantly black, though the East district was not, the report suggested that language transfers were possibly being used by white students to transfer out of East. (Case N, p. 35, 36).

The school board did not even monitor the language transfer program to insure that transfer students actually enrolled in the language classes. (Case N, p. 39).

SUBVERSION OF DESEGREGATION PLANS

In response to government or community pressure, some school boards have entertained plans to remedy acknowledged segregated conditions. Often, these plans are rejected or, where adopted, not effectively implemented. Succeeding school boards have sometimes rescinded the plans adopted by their predecessors. Voluntary efforts by private groups have been thwarted by school officials.

The Boston School Committee submitted numerous ineffective plans and rejected several meaningful plans in negotiations with the State Board of Education, which has withheld funds from the city since 1966 because of racial imbalance in the Boston schools. (Case I, p. 438, 439). Under pressure from the Board and the courts, in August, 1971, the Committee submitted modifications to its own plans, including the formation of a Citizens Advisory Group.

> The [Boston School] committee then proceeded to sabotage both proposals. To membership on the Citizens Advisory Committee it appointed persons known to be vehemently opposed to redistricting and encouraged them to stalemate discussions with members who had been selected by the [state] board. Regarding the broader plan, it engaged in a similar charade.... (Case I, pp. 440, 441).

Boston school officials sabotaged even voluntary desegregation efforts. A group of Black parents began Operation Exodus in September 1965. They raised funds for the private tranportation of black pupils transferring under open enrollment to predominantly white schools. In 1965-66, 250 students participated in Operation Exodus; in 1969-70, the number peaked at 1100 students; by 1971-72, the number dropped to 171.

> At some of the transferee schools, the students encountered locked doors, physical segregation in separate classrooms, auditoriums and corridors and placement in the rear of classrooms. Anticipating the arrival of black students, administrators of some transferee schools had desks unbolted from the floor and removed from classrooms. (Case I, p. 450).

A Concluding Note

This summary description of intentional practices of segregation by school boards in Northern and Western systems helps to explain why federal judges, many of them initially skeptical about the claims of minority parents, have ordered desegregation after hearing all of the evidence. The cases used are only illustrative; a more complete list of cases appears in Appendix A. Further, the Department of Health, Education and Welfare has recently begun to require desegregation of some Northern and Western school systems as a condition of continued receipt of federal financial assistance. Like the courts, HEW requires desegregation when it finds persuasive evidence of intentional practices of segregation. The findings made by HEW investigators in places such as Flint, Saginaw and Ferndale, Michigan; Joliet and Cahokia, Illinois; Bakersfield and Fresno, California, closely parallel those made by the courts in the cases described above. In addition, in other systems where no lawsuit or administrative proceeding is pending, investigations by agencies such as the U.S. Commission on Civil Rights have revealed similar practices of segregation by school officials.

Additional information may be obtained by contacting the Center for National Policy Review, Law School, Catholic University, Washington, D.C. 20064. (202/832-8525).

APPENDIX A

Case A - United States v. Board of School Commissioners of Indianapolis, 332 F. Supp. 655 (S.D. Ind., 1971).

Case B - Taylor v. Board of Education, 191 F. Supp. (S.D.N.Y. 1961).

Case C - Booker v. Special School District No. 1, 351 F. Supp. 799 (D. Minn., 1972).

Case D - Davis v. School District of City of Pontiac, 309 F. Supp. 734 (E.D. Mich., 1970).

Case E - Kelly v. Guinn, 456 F.2d 99 (9th Cir., 1972).

Case F - Oliver v. School District of City of Kalamazoo, 368 F. Supp. 143 (W.D. Mich., 1973).

Case G - United States v. School District of Omaha, 521 F.2d 536 (8th Cir., 1975).

Case H - United States v. School District 151 of Cook County, Illinois, 286 F. Supp. 786 (N.D. Ill., 1968).

Case I - Morgan v. Hennigan, 379 F. Supp. 410 (D. Mass., 1974).

Case J - Keyes v. School District No. 1, 303 F. Supp. 278, 285 (D. Colo., 1969).

Case K - Blocker v. Board of Education of Manhasset, 226 F. Supp. 208 (E.D.N.Y. 1964).

Case L - Bradley v. Milliken, 338 F. Supp. 582 (E.D. Mich., 1971).

Case M - Spangler v. Pasadena Board of Education, 311 F. Supp. 501 (C.D. Calif., 1970).

Case N - Arthur v. Nyquist, Civ.-1972-325 (W.D.N.Y. Apr. 30, 1976).

Case O - Berry v. School District of City of Benton Harbor, Michigan, 505 F.2d 238 (6th Cir., 1974).

Case P - Hobson v. Hansen, 269 F. Supp. 401 (D.C.D.C. 1967).

CHECK LIST OF TYPES OF DISCRIMINATION FOUND BY FEDERAL DISTRICT COURTS IN NORTHERN DESEGREGATION CASES

Type of Discrimination Found by the Court	Benton Harb	Boston	Buffalo	Cincinnati*	Cleveland	Dayton	Denver	Detroit	Gary
Discriminatory drawing or alteration of attendance zones.	X	X	X		X	X	X	X	
Discriminatory location of new schools.		X	X		X	X	X		
Discriminatory expansion of existing schools (e.g., enlarging minority schools rather than transferring minority students to nearby white schools with space available).	X	X			X		X		
School board's failure to relieve overcrowding at white schools by transferring white students to nearby minority schools where space was available.		X			X	X		X	
Discriminatory hiring of teachers and administrators.		X	X			X	X		
Discriminatory assignment of teachers and administrators.	X	X	X		X	X			
Discriminatory promotion of teachers and administrators.		X					X		
School board's perpetuation or exacerbation of segregation in schools by its strict adherence to neighborhood school policy after segregated school system had developed.			X		X				
School board's failure to adopt a proposed integration plan, or to implement previously adopted plans.	X		X			X			
School board's adoption of "open enrollment" or "free transfer" policies having the effect of allowing whites to transfer out of black schools without producing a significant movement of blacks to white schools or whites to black schools.	X	X	X		X	X			
Court found segregation in schools to be de facto rather than the result of state action.				X					X

* The original Cincinnati case (Deal) was prosecuted on a de facto theory and was unsuccessful. A more recent suit (Bronson) not yet litigated, alleges several of the types of discrimination listed above.

CHECK LIST OF TYPES OF DISCRIMINATION FOUND BY FEDERAL DISTRICT COURTS IN NORTHERN DESEGREGATION CASES

Type of Discrimination Found by the Court	Grand Rapi	Hillsboro	Indianapol	Kalamazoo	Kansas Ci	Las Vegas	Manhasset	Minneapoli
Discriminatory drawing or alteration of attendance zones.		X	X	X			X	X
Discriminatory location of new schools.			X	X		X		X
Discriminatory expansion of existing schools (e.g., enlarging minority schools rather than transferring minority students to nearby white schools with space available).			X			X		X
School board's failure to relieve overcrowding at white schools by transferring white students to nearby minority schools where space was available.			X					
Discriminatory hiring of teachers and administrators.						X		
Discriminatory assignment of teachers and administrators.	X		X	X				X
Discriminatory promotion of teachers and administrators.								
School board's perpetuation or exacerbation of segregation in schools by its strict adherence to neighborhood school policy _after_ segregated school system had developed.						X	X	X
School board's failure to adopt a proposed integration plan, or to implement previously adopted plans.			X	X				
School board's adoption of "open enrollment" or "free transfer" policies having the effect of allowing whites to transfer out of black schools without producing a significant movement of blacks to white schools or whites to black schools.			X	X				X
Court found segregation in schools to be _de facto_ rather than the result of state action.	X				X			

CHECK LIST OF TYPES OF DISCRIMINATION FOUND BY FEDERAL DISTRICT COURTS IN NORTHERN DESEGREGATION CASES

Type of Discrimination Found by the Court	New Rochell	Omaha	Oxnard	Pasadena	Pittsburg, California	Pontiac	San Francisco	South Holla Phoenix, Il
Discriminatory drawing or alteration of attendance zones.	x	x	x	x		x	x	x
Discriminatory location of new schools.		x	x	x		x	x	x
Discriminatory expansion of existing schools (e.g., enlarging minority schools rather than transferring minority students to nearby white schools with space available).			x	x			x	
School board's failure to relieve overcrowding at white schools by transferring white students to nearby minority schools where space was available.			x	x				x
Discriminatory hiring of teachers and administrators.				x		x		
Discriminatory assignment of teachers and administrators.		x	x	x		x	x	x
Discriminatory promotion of teachers and administrators.				x				
School board's perpetuation or exacerbation of segregation in schools by its strict adherence to neighborhood school policy after segregated school system had developed.	x		x	x				
School board's failure to adopt a proposed integration plan, or to implement previously adopted plans.								
School board's adoption of "open enrollment" or "free transfer" policies having the effect of allowing whites to transfer out of black schools without producing a significant movement of blacks to white schools or whites to black schools.		x	x	x				
Court found segregation in schools to be de facto rather than the result of state action.								

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CHECK LIST OF TYPES OF DISCRIMINATION FOUND BY FEDERAL DISTRICT COURTS IN NORTHERN DESEGREGATION CASES

Type of Discrimination Found by the Court	Springfield Mass.	Lansing, Michigan	Columbus Ohio	Milwaukee Wisconsin				
Discriminatory drawing or alteration of attendance zones.		X	X	X				
Discriminatory location of new schools.		X	X	X				
Discriminatory expansion of existing schools (e.g., enlarging minority schools rather than transferring minority students to nearby white schools with space available).		X						
School board's failure to relieve overcrowding at white schools by transferring white students to nearby minority schools where space was available.			X					
Discriminatory hiring of teachers and administrators.								
Discriminatory assignment of teachers and administrators.		X	X					
Discriminatory promotion of teachers and administrators.			X					
School board's perpetuation or exacerbation of segregation in schools by its strict adherence to neighborhood school policy after segregated school system had developed.	X			X				
School board's failure to adopt a proposed integration plan, or to implement previously adopted plans.				X				
School board's adoption of "open enrollment" or "free transfer" policies having the effect of allowing whites to transfer out of black schools without producing a significant movement of blacks to white schools or whites to black schools.		X	X	X				
Court found segregation in schools to be *de facto* rather than the result of state action.								

Benton Harbor

1. Berry v. School District of City of Benton Harbor, 505 F.2d 238 (6th Cir., 1974).

Boston, Mass.

2. Morgan v. Hennigan, 379 F. Supp. 410 (D. Mass., 1974).
3. 509 F.2d 580 (1st Cir., 1974).
4. Cert. denied, 95 S.Ct. 1950 (1975).

Buffalo, New York

5. Offerman v. Nitkowski, 248 F. Supp. 129 (W.D.N.Y 1965).
6. 378 F.2d 22 (2nd Cir., 1967).

Cincinnati, Ohio

7. Deal v. Cincinnati Board of Education, 244 F. Supp. 572 (S.C. Ohio 1965).
8. Aff'd. 369 F.2d 55 (6th Cir. 1966).
9. Cert. denied, 389 U.S. 847 (1967).
10. On remand, 419 F.2d 1387 (6th Cir., 1969).
11. Cert. denied, 402 U.S. 962 (1971).

11a. Bronson v. Board of Education of Cincinnati, C.A. No. C-174-205 (S.D. Ohio, filed September 29, 1976).

Dayton, Ohio

12. Brinkman v. Gilligan, 503 F.2d 684 (6th Cir., 1974).

Denver

13. Keyes v. School District No. 1, 303 F. Supp. 279 (D. [illegible] 1969).
14. 303 F. Supp. 289 (D. Colo. 1969).
15. 313 F. Supp. 61 (D. Colo. 1970).
16. 313 F. Supp. 90 (D. Colo. 1970).
17. 445 F. 2d 990 (10th Cir., 1971).
18. 413 U.S. 189 (1973).
19. 368 F. Supp. 207 (D. Colo. 1973).
20. 380 F. Supp. 673 (D. Colo. 1974).
21. 521 F. 2d 465 (10th Cir., 1975).

21a. Cert. denied, 96 S.Ct. 806 (1976).

Detroit, Michigan

22. Bradley v. Milliken, 433 F.2d 897 (6th Cir., 1971).
23. 438 F.2d 945 (6th Cir., 1971).

24. 338 F. Supp. 582 (E.D. Mich., 1971).
25. 468 F.2d 902 (6th Cir., 1972).
26. *Cert. denied*, 409 U.S. 844 (1972).
27. 345 F. Supp. 914 (E.D. Mich., 1972).
28. 484 F.2d 215 (6th Cir., 1973).
29. 418 U.S. 717 (1974).
30. 402 F. Supp. 1096 (E.D. Mich., 1975).

Gary, Indiana

31. 213 F. Supp. 819 (N.D. Ind., 1963).
32. *Bell v. School City of Gary*, 324 F.2d 209 (7th Cir., 1963).
33. *Cert. denied*, 377 U.S. 924 (1964).

Grand Rapids, Michigan

34. *Higgins v. Board of Education of Grand Rapids*, 395 F. Supp. 444 (W.D. Mich., 1973).
35. 508 F.2d 779 (6th Cir., 1974).

Hillsboro, Ohio

36. *Clemons v. Board of Education of Hillsboro*, 228 F.2d 853 (6th Cir., 1956).
37. *Cert. denied*, 350 U.S. 1006 (1956).

Indianapolis, Indiana

38. *United States v. Board of School Commissioners of Indianapolis*, 332 F. Supp. 655 (S.D. Ind., 1971).
39. 466 F.2d 573 (7th Cir., 1972).
40. 474 F.2d 81 (7th Cir., 1973).
41. *Cert. denied*, 413 U.S. 920 (1973).

Kalamazoo, Michigan

42. *Oliver v. School District of City of Kalamazoo*, 346 F. Supp. 766 (W.D. Mich., 1972).
43. 448 F.2d 635 (6th Cir., 1972).
44. 368 F. Supp. 143 (W.D. Mich., 1973).
45. 508 F.2d 178 (6th Cir., 1974).
46. *Cert. denied*, 43 U.S.L.W. 3601 (1975).

Kansas City

47. *Downs v. Board of Education of Kansas City*, 336 F.2d 988 (10th Cir., 1964).
48. *Cert. denied*, 380 U.S. 914 (1965).

Las Vegas

49. Kelly v. Guinn, 456 F.2d 100 (9th Cir., 1972).
50. Cert. denied, 413 U.S. 919 (1973).

Manhasset

51. Blocker v. Board of Education of Manhasset, 226 F. Supp. 208 (E.D.N.Y. 1964).
52. 229 F. Supp. 709 (E.D. N.Y. 1964).
53. 229 F. Supp. 714 (E.D.N.Y. 1964).

Minneapolis

54. Booker v. Special School District No. 1, 351 F. Supp. 799 (D. Minn., 1972).

New Rochelle

55. Taylor v. Board of Education, 191 F. Supp. 181 (S.D.N.Y. 1961), appeal dismissed as pre-mature.
56. 195 F. Supp. 231 (S.D.N.Y. 1961), remedy considered, 288 F.2d 600 (6th Cir., 1961).
57. 294 F.2d 36 (2nd Cir., 1961), aff'd. on rehearing.
58. Cert. denied, 368 U.S. 940 (1961).
59. 221 F. Supp. 275 (S.D.N.Y. 1963), decree modified.

Omaha, Nebraska

60. United States v. School District of Omaha, 389 F. Supp. 293 (D. Neb., 1974).
61. 521 F.2d 530 (8th Cir., 1975).
62. Cert denied, 44 U.S.L.W. 3280 (1975).

Oxnard

63. Soria v. Oxnard School District Board of Trustees, 328 F. Supp. 155 (C.D. Calif., 1971).
64. 467 F.2d 59 (9th Cir., 1972).
65. 409 U.S. 945 (1972), application for stay denied.
66. 488 F.2d 579 (9th Cir., 1973).
67. Cert. denied, 416 U.S. 951 (1974).
68. 386 F. Supp. 539 (C.D. Calif., 1974).

Pasadena

69. *Spangler v. Pasadena Board of Education*, 311 F. Supp. 501 (C.D. Calif., 1970).
70. 415 F.2d 1242 (9th Cir., 1970).
71. 427 F.2d 1352 (9th Cir., 1970).
72. *Cert. denied*, 402 U.S. 943 (1971).
73. 375 F. Supp. 1304 (C.D. Calif., 1974).

Pittsburg, California

74. *Brice v. Landis*, 314 F. Supp. 974 (N.D. Calif., 1969).

Pontiac, Michigan

75. *Davis v. School Board of Pontiac*, 309 F. Supp. 734 (E.D. Mich., 1970).
76. 443 F.2d 573 (6th Cir., 1971).
77. *Cert. denied*, 404 U.S. 913 (1971).
78. 374 F. Supp. 141 (E.D. Mich., 1974).
79. 474 F.2d 46 (6th Cir., 1973).

San Francisco

80. *Johnson v. San Francisco Unified School District*, 339 F. Supp. 1315 (N.D. Calif., 1971).
81. Stay denied, 404 U.S. 1215 (1971).
82. 500 F.2d 349 (9th Cir., 1974).

South Holland-Phoenix

83. *United States v. School District 151 of Cook County, Illinois*, 286 F. Supp. 786 (N.D. Ill., 1968).
84. 404 F.2d 1125 (7th Cir., 1968).
85. 301 F. Supp. 201 (N.D. Ill., 1969).
86. 432 F.2d 1147 (7th Cir., 1970).
87. *Cert denied.*, 402 U.S. 943 (1971).

Springfield, Massachusetts

88. *Barksdale v. Springfield School Committee*, 237 F. Supp. 543 (D. Mass. 1965).
89. 348 F.2d 261 (1st Cir., 1965).

Update

Benton Harbor

90. Berry v. School District of City of Benton Harbor, 442 F. Supp. 1280 (W.D. Mich. 1977)
91. 467 F. Supp. 630 (W.D. Mich. 1979)
92. 467 F. Supp. 695 (W.D. Mich. 1979)
93. 467 F. Supp. 721 (W.D. Mich. 1979)
94. 494 F. Supp. 118 (W.D. Mich. 1980)

Columbus

95. Penick v. Columbus Board of Education, 429 F. Supp. 229 (S.D. Ohio 1977)
96. 583 F.2d 787 (6th Cir. 1978)
97. cert. granted, 439 U.S. 1066 (1979)
98. aff'd, 443 U.S. 449 (1979)

Dayton

99. Brinkman v Gilligan, 518 F.2d 853 (6th Cir. 1975)
100. 539 F.2d 652 (6th Cir. 1977)
101. 446 F. Supp. 1232 (W.D. Ohio 1977)
102. 561 F.2d 652 (6th Cir. 1977)
103. 433 U.S. 406 (1977)
104. 583 F.2d 243 (6th Cir. 1978)
105. 443 U.S. 526 (1979)

Lansing

106. NAACP v. Lansing Board of Education, 485 F.2d 569 (6th Cir. 1973)
107. 429 F. Supp. 583 (W.D. Mich. 1976)
108. cert. denied, 434 U.S. 997 (1977)
109. aff'd 571 F.2d 582 (6th Cir. 1978)
110. cert. denied, 438 U.S. 907 (1978)
111. aff'd, 581 F.2d 115 (6th Cir. 1978)

Milwaukee

112. Amos v. Board of Education, 408 F. Supp. 765 (E.D. Wis. 1976)
113. Armstrong v. O'Connell, 408 F. Supp. 825 (E.D. Wis. 1976)
114. 416 F. Supp. 1325 (E.D. Wis. 1976)
115. 416 F. Supp. 1344 (E.D. Wis. 1976)
116. aff'd, 539 F.2d 625 (7th Cir. 1977)
117. 427 F. Supp. 1377 (E.D. Wis. 1977)
118. cert. granted, 433 U.S. 672 (1977)
119. 566 F.2d 1175 (7th Cir. 1977)
120. 451 F.Supp. 817 (E.D. Wis. 1978)
121. 463 F.Supp. 1295 (E.D. Wis. 1979)
122. 471 F.Supp. 800 (E.D. Wis. 1979)
123. 471 F.Supp. 827 (E.D. Wis. 1979)
124. 616 F.2d 305 (7th Cir. 1980)

Ms. **Arrington**. This is from the Center for National Policy Review, which we have used.

The only thing I would add to the discussion as evidence has also been presented in northern school desegregation cases to show that busing has been used in the North to transport both black and white students beyond schools where they would be in the minority to schools where they would be in the majority. I am thinking particularly of evidence presented in Detroit and also the Pasadena, Calif. case.

So busing for segregation purposes is not a phenomenon only of the South.

Mr. **Edwards**. Do you have some examples of cities or areas where the desegregation efforts, which included busing, have worked out, where there is relative community harmony and there has not been the white flight that we have heard so much about in these hearings?

Dr. **Flemming**. We have in our complete statement references to a number of other communities where, on the basis of the evidence we have, we can conclude that it really has worked. We will not contend that there hasn't been any white flight. Sure, you get a certain amount of white flight; you are bound to. But just considering the situation from an overall point of view, weighing the pluses and minuses, there is no question at all but that on balance it comes out in favor of the pluses.

And we do refer to some of those communities, and we can amplify on the evidence that we have relative to those particular communities.

Mr. **Edwards**. Thank you.

We have had testimony to the effect that most "white flight" is not necessarily caused by busing anyway, that the white flight has a life and energy of its own.

Dr. **Flemming**. All of its own, that's right.

Of course, Mr. Chairman, I have done a fair amount of speaking on this throughout the country and always try to open up for questions and answers, and I have had to deal with the white flight issue always. And I don't deny that some people do want to avoid having their children participate in a desegregated school system. We know that there are people who will do that. So to some extent a decision to desegregate will contribute to it.

But, as you say, there are many other factors that enter into this development that we have witnessed over a period of 20 years or so—25 years—in this country. And to say that it is due entirely to desegregation is inaccurate.

On the other hand, I don't want to say that it doesn't make any contribution. It does in some instances, because I can recognize that we still have in our society people who do not want to have their children attend a desegregated school. And they will go to no end to prevent that. Sometimes it is white flight; sometimes it is helping to establish a new private school, and so on.

Mr. **Edwards**. Thank you.

Ms. Cooper.

Ms. **Cooper**. Thank you.

Ms. Arrington, you mentioned earlier the use of busing in the North for segregative purposes, and the prepared statement also indicates that approximately 50 percent of American school children are bused, most of them for nondesegregation purposes.

What do these facts and the other realities indicate about to the extent to which neighborhood school is still the goal and reality of American public education?

Ms. Arrington. Well, I think with declining enrollments and the consolidation of school districts over the past few decades, the neighborhood school has become less a reality than it was in the past.

I also believe—and Mr. Alexander can comment on this—that there have been court decisions not related to school desegregation that have established that parents do not have the right to require that their children attend neighborhood schools, that this is a decision that is made by the school board in the assigning of students.

Busing for purposes of transporting children to school is a convenience. It is a convenience that has been with us since the 19th century, and that most parents wanted. In the South, before the *Brown* decision, oftentimes transportation of students through busing was provided only for white students because again it was a service, and funding for minority schools was not as extensive as it was for white schools.

So often when I talk to people about school desegregation I make the point that we should not make busing synonymous with school desegregation. School desegregation is a reassigning of students, and the transportation or the provision of buses is often provided as a convenience to the parents.

Ms. Cooper. But, of course, much of the debate that is going on about school desegregation has focused on busing and the inconvenience that it poses for children who are involved in the busing program, for example, that they can't participate in extracurricular activities, there is difficulty in picking up a sick child. Those arguments are made. But what about those 50 percent of American children who are bused for nonsegregative purposes? Is the average time they spend on the bus comparable to the average time children are on buses for purposes of desegregation? Are they comparable?

Ms. Arrington. Well, we do have indications from some districts in fact that as a result of school desegregation the time and distance involved in the transportation of students has sometimes decreased. This has happened with metropolitanwide plans that have allowed you to cross district lines, which might result in less transportation in terms of the time and the distance.

Ms. Cooper. Dr. Flemming.

Dr. Flemming. Have you finished?

Ms. Arrington. Yes.

Dr. Flemming. I was going to say on that particular point that I am sure if you could make some comparative studies of the time spent on buses that are used in order to carry forward the work of a consolidated school district as contrasted with the time spent on buses in order to carry out a desegregation plan, you would find very little difference between the two.

But also I think it is very important to keep in mind that the Supreme Court in *Swann* v. *Charlotte-Mecklenburg* recognized that it is possible for someone to devise a desegregation plan that calls for busing that would involve too much time and that would have an unfavorable impact either on the health of the students or on the achievement of the educational objectives.

And the court in *Swann* v. *Charlotte-Mecklenburg* made it very, very clear that pupil transportation on buses should be worked out in accordance with the conditions that exist in a particular community, and that a plan should not be put into effect that would place an unreasonable burden on children.

The Chief Justice, Chief Justice Burger, who wrote that opinion, was very emphatic on that very point.

I am sure that if we took a look at all of the desegregation plans we could probably identify a few, or conceivably the people who devised the plan went a little too far in saying that pupils should participate in a transportation program that made it necessary for them to spend an hour on the bus each way. To me that would be unreasonable.

In some instances the overall standards have specified that the detailed plan should not call for transportation that would take, say, longer than 30 to 40 minutes. I think that is a reasonable kind of provision.

But I think it is very important for people to understand the Supreme Court has made clear that they would not accept a plan that was unreasonable as far as the burden that it placed on the students was concerned.

Ms. COOPER. I think one of the gaps in our knowledge needed to figure out what is reasonable is that we don't know how much time children are spending on buses, particularly those who aren't in a desegregation plan. Maybe the information is out there.

The amendment to the Justice Department authorization bill, sponsored by Senator Johnston is an attempt to set "reasonable" time and distance limits. But under those limits, there would be virtually no busing. So it is not necessarily "reasonable."

Is that kind of information available? Could the committee be advised as to how much time children are spending on a bus for whatever purpose?

Dr. FLEMMING. Well, we'd certainly be glad to make some inquiries to see whether or not that information is available and, if not, whether anyone is making any plans to try to bring it together. Because I agree with you, I think it would be very relevant to the current debate.

Ms. COOPER. Mr. Alexander.

Mr. ALEXANDER. One of the problems is dealing with what is reasonable as an abstract notion. We have had consolidated schools in this country for the reason we have had very diversified rural school systems that could not provide the kind of service consolidated schools could provide. Out West an hour's ride on the bus to a high school is a fairly common thing. On a Navajo reservation you can ride a lot longer than that to get to a school.

So to focus on an hour ride in the Washington metropolitan area, which might seem unreasonable to a court in terms of its equitable powers in fashioning a remedy in many of the rural school systems of the country as a norm, we may find ourselves comparing apples and oranges and strawberries that are not very much related. The question itself has some fallacies in it.

Ms. **Arrington**. I want to make a further point about extracurricular activities and student participation. The Commission has found when school districts make an attempt to go beyond simply reassigning students and to see that all students are truly integrated into the school system and feel a part of the school system, often they will provide after-hour buses that will permit the students to participate in after-school activities. And again it is a convenience to transport them back to their neighborhoods.

We have found this is something that has increased community support for school desegregation.

Ms. **Cooper**. To what extent has that kind of support been dependent upon Federal financial assistance which is no longer going to be forthcoming? And if money is no longer available for the kind of programs that make desegregation publicly acceptable, what is the future?

Ms. **Arrington**. Federal funds were never used for transportation, but certainly they have been used in the past for human relations training and programs to inform the community about school desegregation, to help provide information centers, and so forth.

And as the chairman stated, we are very distressed about the cuts in funding, and unless that void is filled—and I don't know how that could occur—I think the results will be very devastating across the country.

Ms. **Cooper**. Mr. Alexander, as the Commission's attorney, could you give us your opinion as to what the Mottl amendment, House Joint Resolution 56, means? What consequences other than a ban on court-ordered busing would flow from it?

Mr. **Edwards**. I believe that that response will take a little while and since there is a vote on the floor, so I think we will hold that response until after a brief recess.

[Whereupon, a short recess was taken.]

Mr. **Edwards**. The subcommittee will come to order.

Mr. Alexander.

Mr. **Alexander**. The Mottl amendment, which is fairly simple on its face, would prohibit any person to be assigned to or excluded from any school on the basis of race, religion, or national origin. In effect it would preclude what the chairman quoted Judge Wisdom saying in his opening statement, and that is that a remedy to be constitutional must be effective.

And the long history of school desegregation litigation in this country has shown we have not come to the point of pupil assignment by accident. Between *Brown* and *Alexander* there were 12 years of attempts at all sorts of remedies in the lower courts that were ineffective. In the early 1970's we struck down the freedom-of-choice policy, and so on. We've gotten to this point 25 years after *Brown*, being forced to the point of using pupil transportation as a remedy in some cases.

The additional problem with Mr. Mottl's amendment is we don't know what "assigned to" and "excluded from" means. It appears from reading his proposed amendment that all race-conscious remedies in the school context might be precluded, such as magnet schools, clustering, things people define as somewhat more acceptable school desegregation techniques than simply student assignment.

The use of religion in the article is without explanation. I am sure it would confuse such things as religious dismissal policies and the like.

The major point, however, is that it eviscerates the Constitution. It sets up the 5th amendment and the 14th amendment as hortatory promises, paper tigers, promises that cannot be achieved. It is as if we went back to the 1880's when the Supreme Court destroyed reconstruction in the civil rights cases and said that the 14th amendment to the Constitution could not be enforced. And we lived with that, and we are living today with the results of that nonenforcement by our Federal Government of its responsibilities under the Civil War amendments until 1954. And an amendment of the nature that Mr. Mottl proposes or the amendments that prohibit the Department of Justice from bringing such litigation or litigation strategy by the Department of Justice that preclude it from achieving effective remedies in fact will take us back to the 1880's in terms of litigating constitutional rights and achieving effective remedies. We will have paper promises, false promises.

Mr. **Edwards**. Thank you.

Mr. Boyd.

Mr. **Boyd**. Mr. Alexander, then what you are saying is the only effective remedy available to the Government to enforce the 14th amendment is mandated school busing; is that correct?

Mr. **Alexander**. In certain circumstances, in certain geographic settings, and in certain population clusters, that in fact has been found by our court systems to be the only effective remedy.

Theoretically, I'm sure anybody could come up with a community of a certain size and a certain segregation pattern that you can use walk in school assignments.

But to get back to Mr. Mottl's amendment, it is not just pupil transportation. That is assignments. If, on the one side of the street, we have a black community, and on the other side of the street, we have a white community, and on the white side of the street, we assign students to school A and on the other side of the street we assign students to School B—if we desegregate by just mixing up the assignments, that is probably a violation of the Mottl amendment. There is not a bus, a train, or any form of transportation involved.

Mr. **Boyd**. It is only a violation of the Mottl amendment if those mixed-up assignments are mixed up on the basis of race.

Mr. **Alexander**. We are taking race into consideration in defining what our remedy is.

Mr. **Boyd**. Not necessarily. If you put all the names in a hat and pick out x number of names for school A and x number——

Mr. **Alexander**. Why are you doing that?

Mr. **Boyd**. I am not doing it.

Mr. **Alexander**. No, why would you go from the existing system to a system of mixing up names in a hat? You are doing it to find a remedy, and that is a race-conscious remedy.

Mr **Boyd**. In your opinion.

Mr. **Alexander**. It may be an effective one, but it is race conscious.

Mr. **Boyd**. Is there any case law to back you up?

Mr. **Alexander**. On that particular one? I don't know if anybody has used a mixed-hat one that has been litigated in court.

Mr. **Boyd**. Random assignment.

Mr. **Alexander**. A random assignment system. There have probably been random assignments on the district court level but I'd have to get back to you on that.

Ms. **Cooper**. In Beaumont, Tex., the district court recently ordered such a system, using selection of colored pingpong balls to make assignments, which would be a random assignment with a motivation of achieving racial balance.

Mr. **Alexander**. Does a child who gets a pingpong ball for a school 30 miles from their house and is transported by bus—what is the basis there?

Mr. **Boyd**. The determination of who goes to what school in the Mottl amendment would not be based on race. It would be based on the motivation of the student to choose school A, B, or C, or a random selection of students who go to schools A, B, and C without regard to race.

Mr. **Alexander**. I will get back to Judge Wisdom again, who explains the difference in the *Jefferson County* decision as the difference between being color conscious and colorblind. In allocating constitutional rights, the Constitution is colorblind. In curing constitutional violation, it is color conscious. And Jefferson County——

Mr. **Boyd**. Green is not on point. Green involved a random selection system in which there were not enough vacancies once the selection had been made. It was a stacked deck.

Thank you, Mr. Chairman.

Dr. **Flemming**. Could I just follow up on that item. I'd like to read into the record at this point the quote from Judge Wisdom in *United States* v. *Jefferson County Board of Education* because I think it does sum up the situation very effectively:

> The Constitution is both color-blind and color-conscious. To avoid conflict with the equal protection clause, a classification that denies a benefit, causes harm, or imposes a burden must not be based on race. In that sense the Constitution is colorblind. But the Constitution is color-conscious to prevent discrimination being perpetuated, and to undo the effects of past discrimination. The criterion is the relevancy of color to a legitimate governmental purpose.

And I feel that that sums up the situation very well on the colorblind and color-conscious discussion.

But I would also like to reiterate our conviction that it would be a sad day for this country if we pass a constitutional amendment designed to restrict the courts in their implementation of other provisions of the Constitution which are designed to assure our people certain basic rights.

One other thing. We did have quite a discussion on the Court's attitude toward busing. In *Swann* v. *Charlotte-Mecklenburg*, Chief Justice Burger did say this—and I am quoting:

> An objection to transportation of students may have validity when the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process. District Courts must weigh the soundness of any transportation plan in light of what is said in subdivisions 1, 2, and 3

above. It hardly needs stating that the limits on time of travel will vary with many factors, but with probably none more than the age of the student. The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets, but fundamentally no more so than remedial measures courts of equity have traditionally employed.

I like the language because it recognizes the fact that when you confront a situation in a particular community, you are sometimes confronted with some very difficult problems to reconcile. And under the system that we are operating at the present time, the district court is charged with the responsibility of reconciling them, and if somebody feels that the district court is arbitrary or capricious, you can appeal to the circuit court of appeals, and you can ultimately appeal to the Supreme Court.

And it seems to me this is the way to do it, and not to attempt to take away from the courts the opportunity of working out this kind of a reconciliation.

Mr. EDWARDS. Would you consider it almost a general rule, as some witnesses have indicated, that where there is political leadership by elected officials, and by appointed officials, and by school officials and city and county people, and school board members, of a particular desegregation plan, that the chances for peaceful and useful implementation of the plan are increased?

Dr. FLEMMING. There is no question about that at all. Mr. Chairman, I referred to Columbus, Ohio. As you know, I am a graduate of Ohio Wesleyan located in Delaware, Ohio, which is a little north of Columbus, and I later served as president of Ohio Wesleyan so I know Columbus well and followed things there with a great deal of interest. The idea of desegregation there was resisted, and they exhausted their remedies in the court. But there was a group of community leaders who said, "We think the people who are ultimately fighting this in the courts are going to lose, and when they lose we want to be ready to implement this in a positive and constructive manner." And they were ready.

And every report I get from back there indicates it is moving forward in a very positive and constructive manner.

And let me give you one other illustration. As you know, right in the middle of the initiation of the desegregation plan in Boston, the summer between phase 1 and phase 2, the Civil Rights Commission held 5 days of public hearings. And we took testimony relative to South Boston and all of the tensions that existed there. But we also took testimony relative to a situation involving the Burke High School, which wasn't very far away from the South Boston High School. And that testimony made it very clear that the leaders of that neighborhood had made up their minds they were going to make it work. They were joined by the principal, by the faculty members, by the parents of the students, and there was all the difference between day and night between the situation in the Burke neighborhood and in the South Boston neighborhood.

So right within the same city, where you get the kind of community leadership that you have identified, you are going to get a positive result. It is inevitable.

I quoted in my opening statement the testimony of two seniors who had graduated from the Burke High School. One was a member of the black community, and one a member of the white community, and I don't know that I have listened to any more moving testimony than we heard from those two students, demonstrating that whatever anybody may say about the educational impact it is clear that one of the gains is going to be that students will have the opportunity of becoming acquainted with other cultures, with the representatives of other cultures, and will have the opportunity of being better prepared to live and to work in a pluralistic society.

Ms. **Cooper**. Just a couple of more questions.

What current projects, if any, is the Commission undertaking in the area of the issue of school desegregation?

Dr. **Flemming**. We will be issuing within a couple of months a monograph dealing with desegregation where we will deal with some of the same basic issues this committee has been dealing with and that I have dealt with in my longer statement and that we have been dealing with here today, and will update the situation as much as we can.

It is not a long study in this case. It is a monograph, and we hope that it will be the type of monograph that can be used from an educational point of view so that people will have a better understanding of this overall situation.

Ms. **Cooper**. We will certainly look forward to that.

Finally, Dr. Flemming, would you comment on the statement made the other day by the Assistant Attorney General for the Civil Rights Division. Mr. Reynolds, indicating that the Department of Justice would be pursuing a policy of suing school systems where the resources would be unequally divided between black and white schools, and that would be the thrust of their enforcement effort as opposed to race-conscious remedies such as busing.

Dr. **Flemming**. I read the newspaper account of that statement. I have not seen the complete text of the statement. But on the basis of the newspaper account I was disturbed. I was disturbed because it seemed to me that this was beginning to walk down the old pathway of separate but equal. And after all, *Brown* v. *Board of Education* rejected the concept of separate but equal.

It may be that there were some qualifying statements or qualifying expressions in the full statement that would lead to my modifying what I have just said, but I feel that we turned our backs on separate but equal in 1954. Certainly this Nation had a disastrous experience with that.

I believe, first of all, that you never will achieve the objective of separate but equal as the governing establishments will make sure of the fact that you don't. But even if you did you would be depriving the children and young people of this country of an educational experience to which they are entitled. You would be depriving members of the black community, members of the Spanish-heritage community, members of the white community, members of all communities of the opportunity of becoming acquainted with other cultures and becoming acquainted with the representatives of other cultures, of the opportunity of preparing themselves to live and to work in a pluralistic society.

And you'd just be repeating the experience that was condemned so vigorously by Chief Justice Warren in writing for a unanimous court in *Brown* v. *Board of Education*.

Ms. **Cooper**. Thank you.

Mr. **Edwards**. You mention on pages 1 and 2 of the outline, Dr. Flemming, your concern about the change in direction by the Civil Rights Division of the Department of Justice with regard to Houston, Tex., Chicago, and Seattle, Wash. Would you amplify that? In the first place, do you think that these approaches that the Division will take will in fact achieve desegregation?

Dr. **Flemming**. Mr. Chairman, we are concerned about these developments because we believe that they represent a retreat as far as the objective of desegregation is concerned.

Take the Houston, Tex., situation. We were very encouraged when the Department of Justice filed suit in the district court asking for the development and implementation of a metropolitan desegregation plan. We recognize that the initial decision was a negative decision from the standpoint of the Department of Justice, but we fully expected that that would be appealed to the circuit court of appeals so that they would have the opportunity of looking at the whole issue.

The Chicago situation has been a rather discouraging situation for a considerable period of time, and we were encouraged when in July the Department of Justice indicated that they were dissatisfied with the plan that the Chicago school board had developed in response to a court order on the ground that they felt that it was incomplete. And certainly our analysis would indicate that that was a sound conclusion.

It is very difficult for us to comprehend why between July and August it could be looked upon as becoming something better than incomplete.

I did refer to the Texas situation, which is not a desegregation situation, but it does involve, of course, equal access to the educational resources of the State. We have followed the developments in that case with a great deal of interest, and we reacted very positively to the decisions of the U.S. District Court and the U.S. Court of Appeals finding the Texas law unconstitutional.

At that point, of course, the Department of Justice had supported the position of the unconstitutionality of the law. We were certainly disappointed to have the Department of Justice reverse its position and indicate that it was not going to take any position on this one.

The State of Washington is, we feel, a significant development. Here is a situation where three communities, really, in the State of Washington—Seattle, Takoma, and Pasco—on their own initiative developed desegregation plans. They voluntarily developed desegregation plans. They were not under any court order. But the plans had in them elements of compulsion.

And as you know, by referendum, then, a law was passed making those plans illegal. Then the school boards in question, plus some other interested parties, went into the district court and challenged the constitutionality of the Washington State law. The district court held that it was unconstitutional. And the circuit court of appeals agreed also that it was unconstitutional. And up to that point the Department of Justice had maintained the same position.

Now, it is discouraging to have the Department of Justice turn around and take the position that that action was constitutional—not unconstitutional, but constitutional.

So when you put all these various steps together, it does raise a question in our minds as to whether or not we are moving in the wrong direction as far as desegregation is concerned and, as I indicated in my statement, particularly when you link it up with the tendency in the Congress to put riders on which have somewhat similar objectives in mind.

We feel that it means that we confront a situation that could add up to a serious retreat in the area of desegregation. And as I indicated in the beginning, we believe that any retreat in the area of desegregation will signal a retreat across the board as far as civil rights is concerned.

We have communicated our concerns to the Department of Justice and opportunities are going to be provided for us to talk with them about these matters. With the record standing as it does at the moment, I feel the concern we expressed in our testimony is a valid concern.

Mr. EDWARDS. We are certainly going to talk to them, too. We have not yet seen a carefully presented, scholarly reasoned statement as to why this change in direction is taking place, and I think we are entitled to and you are entitled to and the American people are entitled to them explaining it in detail and backing it up with constitutionally sound arguments why they have this change in mind.

Do you have further questions?

Ms. COOPER. No.

Mr. EDWARDS. Mr. Boyd?

Mr. BOYD. No.

Mr. EDWARDS. Thank you very much. We might have questions in writing.

Dr. FLEMMING. We'd be delighted to receive them. We'd be delighted to come back any time we can help.

Mr. EDWARDS. Thank you.

[Whereupon, at 12 m. (noon) the hearing was adjourned.]

SCHOOL DESEGREGATION

WEDNESDAY, OCTOBER 14, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:35 p.m., in room 2237, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards and Washington.

Staff present: Janice E. Cooper, assistant counsel, and Thomas M. Boyd, associate counsel.

Mr. **Edwards**. The subcommittee will come to order.

Today's hearing will focus on the status of the desegregation efforts in two of our most elegant cities—one in the South and one in the West—Memphis and Seattle.

The histories of these cities are vastly dissimilar, but the problems faced by their school systems today are not dissimilar.

How these communities have responded to these challenges and how we may learn from their experiences are the questions before us today.

Our first witness is my distinguished colleague and my good friend, whose district includes part of Memphis, Congressman Robin Beard.

Mr. Beard, we welcome you. You may proceed.

TESTIMONY OF ROBIN L. BEARD, A MEMBER OF CONGRESS FROM THE STATE OF TENNESSEE

Mr. **Beard**. Thank you, Mr. Chairman.

My statement is brief. I would then be more than willing to respond to any questions that you may have.

Mr. Chairman, I am thankful for this opportunity to comment to this committee on a matter of extreme importance to millions of Americans, the continuing use of court-ordered busing to achieve racial quotas in this country's public schools.

It is time for the insanity of this type of forced busing to be stopped. I believe that the constitutional amendment proposed by my colleague from Ohio, Ron Mottl, is the only effective solution, and I come here today in strong support of that amendment.

Mr. Chairman, you and every Member of this Congress know that the only way to end court-ordered busing is through a congressional amendment. Statutory remedies are inadequate because the unelected, unaccountable Federal judges who impose these orders on the people do so based on constitutional interpretations, not statutory interpretations.

These interpretations, in my opinion and in the opinion of many noted constitutional scholars, bear no relation to the constitutional text, but they are constitutional interpretations nonetheless, and the only way they can be overturned is through a constitutional amendment.

Every poll ever taken on this issue shows overwhelming opposition to forced busing on the part of the American people. Polls also show that a majority of black and other minority Americans oppose forced busing.

Busing is literally destroying public school systems all across this country by causing massive white flight to the suburbs or to private schools, not to mention the waste of precious tax dollars that ought to be going into improving the quality of education for children of all races.

I am in a particularly good position to comment on the pernicious effects of forced busing because my district includes parts of two metropolitan areas that have been seriously damaged by court-ordered busing plans.

Those areas are Memphis and Nashville, Tenn. I would like to make a few comments about the situation in both.

First, Memphis: Memphis has been under a court-ordered busing plan for nearly a decade. The effect has been nothing less than catastrophic for the quality of education for both white and black children in the public schools.

The Memphis Public School System was roughly half white and half black before forced busing began; now it is over 3 to 1 black, with the majority of white students living in those parts of the city outside the boundaries of the busing plan.

Within that part of Memphis under the busing plan, white enrollment is below 10 percent and continues to decline every year. The result of this Federal court-ordered idiocy has been to make the Memphis Public School System far more segregated now than it ever was before the forced busing began.

The financial cost of running this plan is about $5 million annually in direct expenditures but nearly $30 million a year more when one factors in the amount of State aid lost because of the flight of so many students from the public school system.

In a time of increasing budgetary cutbacks, these lost dollars represent a huge amount for the taxpayers of Memphis to forfeit, money that could and should be going to improve the quality of education for children of both races in Memphis.

But due to the insanity of forced busing, it is being spent to further the deterioration of the Memphis Public School System.

In Nashville, the attempts of the entire community to arrive at a satisfactory desegregation plan that emphasized quality of education for all and deemphasized busing were frustrated by a panel of Federal judges sitting in another State on the eve of the opening of the Nashville Public Schools this past August, causing untold confusion throughout that city's school system.

The Nashville plan that had been devised jointly by U.S. District Judge Tom Wiseman along with parents, teachers, and school board officials was a reasonable replacement for the previous plan that relied heavily upon forced busing.

It had the support of virtually all major elements of the Nashville community, both white and black. Teachers and parents spent the whole spring and summer enthusiastically preparing to implement the plan in the fall semester.

Then just 2 days before the schools were to open, the Sixth Circuit Court of Appeals in Cincinnati scuttled the whole effort, causing the postponement of the opening of the schools and chaos as educators, parents, and students had to scramble to adjust literally overnight to the new situation, a situation based on reinstituting the old forced busing plan that no one liked and which had totally failed to improve the quality of education for Nashville's schoolchildren.

The tragedy of this whole sorry episode—and it is a tragedy, Mr. Chairman—is that the education of the schoolchildren of Nashville was totally ignored as the social engineering lawyers, judges, and local activists tried to force their own personal desires and theories on the people.

This type of occurrence should be totally unacceptable in a democracy where the people are supposed to rule their own lives, and those of their children, and not be dictated to by unelected judges and bureaucrats.

It was to secure the right to self-government that this Nation fought a revolution over 200 years ago; now we are losing that right to judges who are supposed to support our democracy, not undermine it.

The 1954 Supreme Court decision knocking down segregation of schools by law was a reasonable interpretation of the 14th amendment. It was a decision long overdue, and I do not think that there are many people in the South or elsewhere in this country who would want to go back to that system again—a very unfair system.

I know I certainly do not and I am sure that the majority of Tennesseans in Nashville and Memphis agree with me.

But court-ordered busing takes the logic of *Brown* v. *Board of Education* and twists it perversely. Brown said that race should not be a basis for assigning students to school.

The busing decisions, however, said that race not only should be a factor for assigning students, it is the only factor.

The educational needs of the students, the cost of implementing a busing plan to financially strapped local school systems, the natural housing patterns of the community, the terrible inconvenience to parents and children of having to get up way before dark in many cases to catch a bus for rides sometimes as long as an hour one way—none of these things mattered to the judge in his headlong flight to impose a racial quota on the schools to satisfy his or some social engineer's pet theory.

Mr. Chairman, I am here to express my full support for the only solution I see to this madness—the constitutional amendment proposed by Mr. Mottl of Ohio. It says simply:

> No court of the United States shall require that any person be assigned to, or be excluded from any school on the basis of race, religion, or natural origin.

This amendment embodies the 1954 landmark Supreme Court decision eliminating race as a criterion for school assignment. This amendment also guarantees that never in the future will race, religion, or national origin be used as a means of excluding students from school.

In other words, this amendment will prevent the recurrence of any type of legal segregation such as the type so widespread in this Nation before 1954.

The amendment, on the other hand, will have absolutely no effect on desegregation plans that utilize such features as magnet schools, or that strike down school district boundaries drawn obviously to result in segregated schools.

Nor will this amendment affect in any way special assignment plans drawn up to benefit handicapped students or other students with special needs.

In the previous Congress, Mr. Chairman, the only way this body was able to vote on an amendment to stop forced busing was through the discharge petition route. I urge you not to force such a necessity on this Congress.

Whether you, Mr. Chairman, or a majority of your colleagues on this committee agree with me about the need for this amendment, I hope we will not be denied that a majority in the Congress and the Nation does favor an end to court-ordered busing.

You cannot deny that a constitutional amendment is the only effective way to do it. Already over 200 members have signed the discharge petition to bring this amendment to a vote on the floor of the House.

I would strongly request, Mr. Chairman, that your committee at least allow this amendment to come to the floor where we can have the opportunity to vote on it. In other words, let democracy have its chance on this issue.

Thank you for listening to my testimony. I will be more than happy to respond to questions.

Mr. EDWARDS. Thank you.

I yield to the gentleman from Illinois, Mr. Washington.

Mr. WASHINGTON. Thank you, Mr. Chairman.

I want to welcome Congressman Beard here.

I have one or two questions. On page 1 in the bottom paragraph you state:

> Busing is literally destroying public school systems all across this country by causing massive white flight to the suburbs or to private schools. * * *

Is not that overstating the case a bit?

Mr. BEARD. No.

Mr. WASHINGTON. We have had testimony here from other locals which indicated that the white flight, if you want to call it that, which came after busing was invoked was, in many cases, no greater than the white flight which preceded it.

In other words, they were supporting the proposition that there had been a continuing flight over the last 20 years or more in which affluent people—some white and some black—have gravitated toward the suburbs.

I would concede that busing in some instances—and maybe Memphis is one, but I do not have statistics, accelerated this trend. But to take the approach that if you institute busing you automatically, ipso facto have white flight cannot, I think, be supported.

Mr. BEARD. I think if we looked at the majority of the areas that have been involved in the type of school busing orders that Memphis and Nashville, Tenn., have, you will see a very dramatic increase in white flight, appreciating and understanding what you are saying, that there has always been this phenomenon so far as going out into suburbs is concerned.

Whatever the motive is, with the implementation of busing and with the fear of seeing their children bused and in some families children with two or three different children bused to two or three different schools across town——

Mr. WASHINGTON. Yes, I understand that. But I am talking about the breadth of your statement.

I have read the testimony that we will have later today that in one particular city after busing was utilized that the white flight trend—and that term bothers me——

Mr. BEARD. It bothers me.

Mr. WASHINGTON. It should bother everybody. The white flight trend was about 3 percent, which was the same as it was prior to busing. So it is the magnitude and breadth of your statement that disturbs me, not whether it is true or false that busing affects flight.

But the question I want to ask is this: Have you conducted a study or are you privy to any studies which indicate that your premise is correct?

Mr. BEARD. I do not have this with me, but there are studies on certain situations throughout the country where this has been the typical reaction to forced busing.

I am sure there are exceptions. I do not think Memphis, Tenn., is an exception. I think if we were to look and if we were to have testimony from the majority of the school systems that have had this type of busing implemented, that you would find this would be a typical case.

Mr. WASHINGTON. I have to conclude that since we do not have the evidence that the statement is contradicted and denied at this point.

But the thing that disturbs me is the magnitude of it. This is the kind of thing that gets headlines and people play it up. Before you know it, it has a life of its own without any supportive evidence.

I would appreciate if we could have such documentation which would not be selective, but which goes across the entire landscape of this country.

Mr. BEARD. I would be more than happy to do that.

Also, I would like to think of myself as having an open mind. I would not want to be totally persuaded by several local situations that I am personally involved in.

So I would appreciate from the committee or from yourself, Mr. Washington, examples showing that this has not happened. I think it is a two-way sword and I would like to see that.

This is the reason why I am excited that we are now having hearings on what I feel no one can deny is an emotional and real problem. We certainly will be more than happy to work with you.

Mr. WASHINGTON. I would suggest you bring us that kind of testimony. You are the witness and I hope you can.

You state: "Polls also show that a majority of black and other minority Americans oppose forced busing."

I have not seen such polls, but what I have seen are some polls which I thought rather adroitly phrased in which they attempted to plum the depths of the minds of black people within this country which indicated that the majority of black people supported busing as a tool, if necessary, to achieve an end toward equality in education.

Do you have such polls that you can bring in?

Mr. **Beard**. There have been polls taken. We can get our hands on those polls I think in Shelby County and Memphis, Tenn., they have had polls. I know in personal contact that I have had, for example, the president of Lemoyne-Owen College, a black university, has come out expressing his strong opposition to busing.

Mr. **Washington**. I would want polls that went beyond quotes.

Mr. **Beard**. I understand that.

Mr. **Washington**. I have one other question.

Was there not strong opposition to busing by public officials throughout the Memphis metropolitan area even before it was invoked? Has there not been a longstanding pattern of almost violent opposition to busing for desegregation in Memphis?

Mr. **Beard**. I would say that probably people throughout this country and not just Memphis——

Mr. **Washington**. I am talking about Memphis.

Mr. **Beard**. Yes.

Mr. **Washington**. On the part of public officials?

Mr. **Beard**. It was greatly opposed as it has been throughout this country by school boards.

Mr. **Washington**. Let us talk about Memphis. Your expertise seems to be confined to Memphis.

Mr. **Beard**. But apparently the expertise that was confined to Memphis was not good enough from the prior points you made that you did not want me to zero in on Memphis. So I was trying to broaden my scope somewhat.

Mr. **Washington**. It might be that Memphis is in a class by itself.

Before busing was ordered in Memphis, did the community leaders support the concept of desegregation, ignoring busing?

Mr. **Beard**. I am not sure. I will not sit here at this table before you or anyone, in my district or in this country, to try to support that situation that was created in my State as a result of discrimination.

I feel that would be unfair discrimination toward black students which would develop.

In Nashville, Tenn., you could go and be at a Hillsboro High School or an all-white school in a fairly nice neighborhood with nice laboratory facilities and nice physical facilities and good teachers and a student-teacher ratio that was adequate for high-quality education, and then go down the street 10 minutes away to Pearl High School with broken windows and a poor facility and a lack of quality education so far as the tools they had to work with.

I feel sadness and embarrassment that this country ever allowed that to happen.

So, I cannot defend attitudes that came through my part of the State in that situation.

Mr. WASHINGTON. But the question is this: Did not the community leaders in Memphis across the board oppose desegregation prior to busing?

Mr. BEARD. I cannot say that they opposed desegregation. They opposed this particular form of it, but it would be unfair for me to speak of them as to whether they opposed desegregation. I am not in a position to say that.

Mr. WASHINGTON. Aside from busing, and granted the proposition that desegregation should be our policy today, what suggestion do you have for implementing it, if you are opposed to busing?

Mr. BEARD. One of the theories that has been kicked around has been the magnet school proposal. I think the amendment prohibiting the drawing of lines—school district lines, to achieve strict desegregation, should not be allowed.

I am not sure exactly what approach is the perfect approach. I am glad that we are now starting to sit down to have hearings on this to try to find a better solution.

I am saying today that the solution we tried to find has been a failure.

Mr. WASHINGTON. Let me say this: We do know the amendment would preclude the possibility of perhaps any other race conscious remedy; would it not?

Mr. BEARD. I would disagree with that.

Mr. WASHINGTON. Let us look at the language.

Mr. BEARD. The amendment would prevent—go right ahead, Mr. Washington.

Mr. WASHINGTON. It says—I think this is a true paraphrase—that it would prohibit the courts of the United States from requiring a person's assignment to or exclusion from any school on the basis of race, religion, and so forth. That is all inclusive.

Mr. BEARD. It would preclude situations that happened before 1954 and where they used to bus black children passed their nearest school all the way across town to go to white schools.

So it does not just address whites and blacks but it addresses the entire society as a whole.

It does not affect and has no effect on desegregation plans that would utilize such features as magnet schools. It would not strike down school district boundaries drawn obviously to result, that is, it would allow continuing striking down of school district boundaries that are drawn obviously to result in segregation.

So it would not affect in any way special assignment plans drawn up to benefit handicapped children and other students with special needs.

Mr. WASHINGTON. The issue is one of race. As I read the Mottl amendment, it would preclude any form being used.

Mr. Chairman, I yield at this time.

Mr. EDWARDS. Picking up where my colleague left off, Mr. Beard, the Mottl amendment could strike down a plan that purposely discriminated and segregated, but then it could not do anything else to correct the situation. It could merely declare it illegal.

So you are taking away anything that the Federal court could do and you are leaving the Federal courts naked, are you not, except for striking down the school district's plan?

Mr. **Beard**. I do not think we are totally leaving them naked. I feel as a constituent of this country and as a representative for many people, the majority of whom in Memphis, Tenn., oppose busing, that I feel they are the ones who have been struck down and left naked. They are the ones who need to be somewhat considered in this situation.

We continue to hear the question of the interpretation of the Supreme Court.

If this committee, or if the leadership of this country maybe had had more hearings or maybe had tried to seek out other solutions versus busing then we would not have this problem. Congressman Richardson Preyer had alternative solutions which I supported, but for some reason I think it is a sad commentary that we have had to come down to a discharge position. I have always opposed that approach, but I have had to support it because it was the only avenue I had to get to a situation that I feel was doing great harm to our school system.

I do not have the perfect cure-all, but I am sitting before you saying that what we have tried has serious problems.

Mr. **Edwards**. We appreciate your testimony. I believe we have a vote on the floor.

If there are no further questions, we thank you very much for your testimony.

Mr. **Beard**. Thank you, Mr. Chairman.

Mr. **Edwards**. We will recess for 10 minutes.

[Recess taken.]

Congress of the United States,
House of Representatives,
Washington, D.C., November 12, 1981.

Hon. Don Edwards,
Chairman, Subcommittee on Civil and Constitutional Rights, Washington, D.C.

Dear Mr. Chairman: Pursuant to my testimony in support of Mr. Mottl's constitutional amendment to stop forced busing, I have for your information a sample of public opinion surveys which support the contention that the majority of Americans—both black and white—are opposed to forced busing. I wish to include this letter and attachments as an appendix to my testimony before your Subcommittee on October 14, 1981, and also have it inserted in the record.

According to a CBS News/New York Times poll conducted in January of this year, whites and blacks are opposed to busing school children for the purpose of achieving racial integration. Of those interviewed, 77 percent were opposed and only 17 percent were in favor of busing. Moreover, 45 percent of blacks were opposed compared to 37 percent in favor. Whites were overwhelmingly opposed, 82 percent to 14 percent.

I find it particularly significant that, of those opposed, 74 percent indicated they would favor a constitutional amendment if it were the only way to stop busing while only 21 percent disagreed. Of the blacks who previously indicated opposition to busing, 52 percent were in favor of a constitutional amendment to stop busing. Whites favored an amendment also, 76 percent to 19 percent. (See Attachment 1.)

NBC News also conducted a telephone survey on May 18–19 of this year among 1,599 adult Americans to obtain their feelings about a variety of social issues. When queried on the busing issue, 76 percent were opposed to busing. Bi-racial opposition to busing was again registered as 49 percent of the blacks interviewed indicated their opposition, while 46 percent favored busing. Whites were again strongly opposed, 80 percent to 14 percent. (See Attachment 2.)

Even age is irrelevant to the way people feel about busing. From age 18 to 64 and over, the vast majority of Americans are opposed to busing, as reflected in another CBS News/New York Times poll, this one conducted by telephone between June 18 and July 1 of this year. Respondents were categorized into age groups of 18–29, 30–44, 45–64, and over 64. Also interviewed were parents of children under 18. As you can see from Attachment 3, all age groups are overwhelmingly against busing.

I am also enclosing an article which appeared in the Winter 1979 issue of The Public Interest magazine entitled "Blacks, Whites, and Race Politics." The authors provide what I believe to be a remarkable insight concerning various social issues, including busing. They interviewed a random sample of 600 New York City residents by telephone between the months of April and July 1977 to determine the extent to which blacks and whites are divided over, among other things, busing. Fifty-two percent of blacks in their sample and three-quarters of the whites felt that "busing school children across district lines makes relations between the races worse." Need we be reminded of the violence and racial animosity that forced busing has spawned across America? It is indeed a pity that busing has become a victim of "race politics" at the expense of public education.

The authors also cite a survey of black leaders in the nation done by "Tony Brown's Journal," a nationally syndicated television program, in January 1978. A surprising 60 percent of black leaders disagreed with the proposition that children should be "bused to schools outside of their neighborhoods to achieve desegregation," while only 40 percent agreed.

Mr. Chairman, I have included here only a portion of many public opinion surveys and polls in which Americans have expressed their opposition to busing as a means of achieving racial integration. As the attached polls show, blacks and whites on the whole are not divided over busing. To turn this issue into a racial issue is, in my opinion, completely irresponsible. Busing is quite obviously a failure; the majority of Americans realize this, and our public schools are dangerously close to the point of no return.

Let the two hundred plus Members of Congress who have signed the discharge petition be heard, Mr. Chairman, and let's get this amendment to the floor. Let democracy have its chance.

Sincerely,

ROBIN BEARD, M.C.

[Attachment 1]

THE NEW YORK TIMES-CBS NEWS POLL, JANUARY 1981—PART II [1]

A majority of Americans would support a Constitutional Amendment outlawing busing for racial integration, but few who have experienced busing in their communities report that they have taken action against it.

About three out of every four Americans say they are opposed to busing for integration, and most of these say they would support a Constitutional Amendment if that were the only way busing could be stopped. This is true in all regions, in all economic groups, and for parents of school-aged children, and those without children. Blacks are the only group with sizeable (though not majority) support for busing. They are close to evenly divided in attitudes towards busing. Those Blacks who oppose busing are much less likely to favor a Constitutional Amendment than are Whites.

[In percent]

	Total	Whites	Blacks
Favor busing	17	14	37
Oppose busing/support amendment	57	62	24
Oppose busing/oppose amendment	16	16	18

Experience with busing has little to do with support or opposition to it. Those people who report that busing has taken place in their communities have about the same opinions about it as do those who have had no busing for integration purposes. As might be expected, busing has affected more people in the South than in the North, and more people in urban areas than in rural ones. More importantly, perhaps, busing is an older phenomenon in the South than elsewhere in the country.

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[1] This poll was conducted by telephone Jan. 26–29, 1981, among a nationwide random sample. A total of 1,512 adults were interviewed. The error due to sampling could be plus or minus 3 percentage points for results based on the total sample. This poll conforms to the standards of disclosure of the National Council on Public Polls.

Most people, parents included, who live in areas where busing has been implemented, say that they have not personally protested, or taken any other kind of action against it. The vast majority have simply accepted it. Only 21 percent of White parents report taking some action against busing.

Acquiescence is highest in the South, lowest in the Midwest and West. While direct opposition in communities appears to fade the longer busing has been implemented, regional differences are still strong. Better-off individuals seem more likely to take action than are less well-off respondents.

CBS NEWS/NEW YORK TIMES POLL

44. Do you favor busing of school children for the purpose of racial integration or do you oppose busing school children for this purpose?

[In percent]

	Total	Whites	Blacks	South	Non-South
Favor	17	14	37	15	18
Oppose	77	82	45	77	77
No opinion	6	4	18	8	5

44b. (If oppose). If amending the constitution were the only way to stop busing, would you favor such an amendment, or would you oppose it?

[In percent]

	Total	Whites	Blacks	South	Non-South
Favor	74	76	52	70	76
Oppose	21	19	39	24	20
No opinion	5	5	9	6	4

45a. Is there busing now, or is there talk of busing school children for racial integration in your community? (If busing now). Has the busing for racial integration gone on for more than three years?

[In percent]

	Total	Whites	Blacks	South	Non-South
Busing now/3 yr. or less	8	8	13	5	10
Busing now/more than 3 yrs	23	21	34	35	17
Talk of busing	4	4	2	4	4
No busing	58	61	42	47	63
No answer	7	6	9	9	6

45b. (If busing or talk of busing). Whether or not you have children, how do you feel about this? Have you protested or taken other action against busing, or have you just accepted it?

[In percent]

	Total	Whites	Blacks	South	Non-South
Taken action	14	16	4	12	15
Accepted it	79	78	82	85	76
No opinion	6	7	14	3	9

45c. How do the other people in your community feel about busing? Have they protested or taken other action against busing, or have they accepted it?

[In percent]

	Total	Whites	Blacks	South	Non-South
Taken action	31	36	12	22	37
Accepted busing	55	52	72	65	49
No opinion	14	12	16	13	14

[Attachment 2]

MAY NATIONAL POLL

Public confidence in the Social Security system's ability to deliver benefits on retirement has deteriorated sharply over the past year and a half, according to the results of the latest survey of public opinion by NBC News and The Associated Press. Americans continue to support the Reagan Administration plan to cut the federal budget and income taxes, but there is far less unanimity about volatile social issues, including abortion, school busing and the Equal Rights Amendment.

The most recent telephone survey was conducted on May 18–19, among 1,599 adult Americans. Questions dealt with social security, a variety of social issues, military aid abroad, federal spending and taxes, President Reagan's job ratings and other subjects.

Some highlights:

Americans who haven't reached retirement age are only half as confident as they were 18 months ago that the Social Security system will have enough money to pay them their benefits. Only one in five expresses high confidence in the system's solvency.

By a two-to-one margin, the public opposes the proposed 10 percent cut in Social Security retirement benefits.

Support for the Equal Rights Amendment and a woman's right to have an abortion remains strong, while a substantial majority continues to oppose school busing to achieve racial intergration.

President Reagan's overall job rating stands at 62 percent excellent or good, which represents no significant change in the past month.

SOCIAL SECURITY

Only 18 percent of the under-retirement-age persons (18 to 64 year-olds) say they have complete confidence or a great deal of confidence that the Social Security system will have the funds to provide them benefits when they retire. The overwhelming majority—79 percent—say they have only a little confidence or no confidence at all in the ability of Social Security to deliver their benefits. These figures contrast sharply with the findings of a survey conducted by Peter D. Hart Research Associates in November, 1979. At that time, the Hart firm asked a national sample the same question and found low confidence among 60 percent of the public. High confidence in Social Security was expressed by 35 percent of the under-retirement-age group in the Hart survey.

BUSING

Do you favor or oppose busing of public school children to achieve racial integration?

[In percent]

	May 1981			September 1979	
	All	White	Black		All
Strongly favor	8	6	24	Favor	27
Mildly favor	10	8	22	Oppose	73
Strongly oppose	61	65	37	Not sure	4
Mildly oppose	15	15	12		
Not sure	6	6	5		

MOST IMPORTANT ISSUE

Which of the following three issues is most important to you: the busing of public school children to achieve racial integration, the proposed Equal Rights Amendment, or abortion?

	Percent
Busing of public school children	31
Equal rights amendment	23
Abortion	34
Not sure	12

MILITARY AIR ABROAD

How do you feel about U.S. aid to Israel? Do you think we're giving too much aid, not enough aid, or do you think the United States is giving about the right amount of aid?

[In percent]

	May 1981	December 1979
Too much aid	32	38
Not enough aid	8	5
Right amount of aid	43	38
Not sure	17	19

[Attachment 3]

[CBS News, July 20, 1981, 6 p.m. and the New York Times, July 21, 1981, a.m.]

THE NEW YORK TIMES–CBS NEWS POLL, JUNE–JULY 1981—PART II[1]

Many Americans think juveniles who commit violent crimes should be treated as adults, but don't think children should be given the same freedom as adults to decide on living arrangements, abortion and other medical care, and whether or not to engage in sexual relations. The age to decide those things, according to most of the public, is 18 years old or older.

Americans did favor certain changes in the way children are dealt with in divorce cases. Most favored providing children whose parents are engaged in a custody fight with their own attorney, and most supported treating divorced parents who "snatch" their children from the parent awarded custody as kidnappers.

JUVENILE CRIME

Most Americans would like to treat children of 13 who commit violent crimes somewhat differently from adults, but there is a sizeable proportion of the public who would support public trial of juvenile offenders, trial by jury, instead of by family court judge, and sentences for the 13 year old criminal equal to those given to adult offenders.

On only one question was there overwhelming support for treating 13 year old offenders differently—the prison. Over 90 percent support separate prisons for juvenile offenders.

The answers given today about 13 year olds who commit violent crimes closely resemble the responses of the American public four years before when CBS News and The New York Times asked about people's feelings about the treatment of 15 and 16 year olds. In both cases, there was a general preference to try juveniles in separate court from adults, an overwhelming preference to house juveniles in separate prisons, and split opinion on whether juvenile offenders should be given lighter sentences than adults.

30. Do you favor busing of school children for the purpose of racial integration, or do you oppose busing school children for this purpose?

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[1] This poll was conducted by telephone June 28–July 1, 1981 among a nation-wide random sample. A total of 1,467 adults were interviewed. The error due to sampling could be plus or minus 3 percentage points for results based on the total sample. This poll conforms to the standards of disclosure of The National Council on Public Polls.

[In percent]

	Total	18–29	30–44	45–64	Over 64	Have children under 18
Favor	16	24	15	11	14	15
Oppose	78	72	81	83	75	79
No opinion	6	4	4	6	11	6

[Attachment 4]

BLACKS, WHITES, AND "RACE POLITICS"

(By Louis Henri Bolce III and Susan H. Gray)

Anyone reading the newspapers or watching television today could hardly escape the conclusion that monolithic white and black populations remain irrevocably divided in their opinions. During one typical week last winter, stories clearly "racial" in focus, nearly all emphasizing racial polarization and the victimization of blacks, ran a close second to the coal strike in the competition for front-page coverage in The New York Times. Not only do blacks and whites appear to be split over almost everything, but if one heeds those who are "telling it like it is," this gulf seems to be widening. The New York Urban League, for example, concluded in its annual report for 1978, "Black/white relationships deteriorated considerably in New York City last year." A similar study by the Chicago Urban League predicts the outbreak of violent black protests. Public-opinion analyst Gerald Pomper claims that "a broad racial division has developed in regard to most political attitudes." And the lead sentence of The New York Times' recent analysis of racial progress since the Kerner Report warns that racial polarization still exists and that the "chances of healing the rift may be more dismal today than they were 10 years ago."

Central to the popular understanding of race relations is the assumption of attitudinal conflict between blacks and whites. As the Kerner Commission noted a decade ago, racial division ultimately boils down to a conflict in attitudes. White racism or indifference to the needs of blacks is the common explanation for much of the divergence in white and black attitudes, and the tendency to see whites as well-off and advantaged and blacks as poor and disadvantaged widens the schism still further.

Such misconceptions result in what William F. Buckley recently characterized as "race politics." "On each issue of major importance there is presumably a white and a black point of view, each in direct opposition to the other." Contemporary social ills and their remedies are viewed not in terms of the problems themselves but in terms of their presumed consequences for certain racial groups, and it is assumed that one racial group benefits at the expense of another.

The "black" point of view on the economy as articulated by civil rights leaders and black spokesmen emphasizes the need for a public-employment program and similar measures that lead to expansion of the Federal government. On the other hand, the "white" point of view focuses on price stability, anti-inflation measures, and reductions in Federal expenditures and powers. The supposed polarity of blacks and whites over economic policy is based on the assumption that if you are white you are gainfully employed and if you are black you are not likely to be. The "black" point of view supposedly presumes that affirmative-action quotas are justified compensation for past discrimination and necessary to assure and hasten black progress. The "white" point of view is that they are neither necessary nor justified and constitute discrimination in reverse. These examples could easily be multiplied.

Racial polarity "not only implies conflict in attitudes between races, it also implies homogeneity of opinion within races." It assumes that on any particular issue a substantial number of blacks are in disagreement with a substantial number of whites. It would be hard to make a strong case for the existence of racial polarity over a particular policy issue (affirmative-action quotas, for example) if whites and blacks themselves were divided over the issue, and especially if large segments of each race were in basic agreement with one another. Without homogeneity of opinion within racial groups, it would be difficult to show which attitudes represent the point of view of a particular racial group. If blacks are divided over law and order, for example—some favoring tougher penalties to control crime, others opting for the elimination of root causes—which point of view is the "black" point of view or reflects the interests of blacks? Certainly the black point of view, if it is the black point of view, must reflect more than the thinking of a handful of civil-rights leaders and black spokesmen. It must mirror the thinking of a majority within the black community.

Most elite discussion of politics assumes the existence of racial polarity, but to what extent is this justified by the opinion of the general public? If the rift between whites and blacks is substantial and growing, we would expect to see the greatest degree of racial polarity on issues that have a direct bearing on race relations, such as affirmative-action quotas, preferential treatment, and busing. We would also expect to find great homogeneity of black opinion on these issues.

RACIAL CONSENSUS OR RACIAL POLARIZATION?

We interviewed a random sample of 600 New York City residents by telephone between the months of April and July 1977 to determine the extent to which blacks and whites are divided over preferential treatment, racial quotas, and busing for the purpose of achieving school desegregation. The survey responses can also be used to assess the degree to which blacks and whites are split over some of the rationales for these policies, notably the idea that blacks and victimized and that whites are responsible for remedying the present condition of blacks.

Affirmative action means many things to many people. The phrase was first coined in March 1961, when John F. Kennedy issued an executive order requiring that contractors act affirmatively to recruit minorities on a non-discriminatory basis. It was a policy geared toward ensuring qualified minorities equal access to job opportunities. Affirmative action originally meant that employers should aggressively seek out qualified applicants from sources where they might be found. Since that time it has been enlarged to include compensatory training, preferential treatment, goals, quotas, and busing.

Included in our survey were two questions designed to measure attitudes toward the two aspects of affirmative-action policy debated most fiercely today: preferential treatment for "equally qualified" blacks, and the policy of hiring and admitting to schools black applicants "less qualified" than white applicants for the purpose of achieving proportional representation. Depending on how one is disposed toward reading the data, racial polarization can be seen to exist or not to exist.

Attitudes Toward Preferential Treatment[1]

Proposition: "There should be a Federal law which would give special advantages to blacks over whites in college entrance and job hiring in order to make up for the mistreatment they received in the past."

	Percent
Whites:	
Agree	12
Disagree	85
Blacks:	
Agree	40
Disagree	53

If the survey analyst is disposed to stress racial differences, he will undoubtedly emphasize that blacks favor preferential treatment by a margin of three-to-one over whites. Forty perecent of the black respondents compared to 12 percent of the whites agreed that "there should be a Federal law that would give special advantages to blacks over whites in college entrance and job hiring in order to make up for the mistreatment they received in the past." The person not inclined to stress polarization, while recognizing that blacks are more likely than whites to support preferential treatment, would direct attention to the fact that a majority of both races opposes preferential-treatment policies. A Gallup poll carried out in March 1977 reveals a similar pattern of findings. Gallup asked his sample whether blacks and women "should be given preferential treatment in getting jobs and places in college" or whether ability should be the main consideration. A minority of blacks as well as whites favored preferential treatment over ability.

Even blacks who favor preferential treatment do not confer blanket approval on all other affirmative-action programs. For example, they do not throw their unequivocal support to racial quotas or what has been sensationalized as "reverse discrimination." This is revealed by the responses of blacks to a second question on affirmative action in our survey, one that introduces the idea of competence. Black approval of affirmative action when it takes the form of a "Federal law that favors less-qualified blacks over whites in college entrance and job hiring," was halved: In fact, blacks were only slightly more supportive of this policy than were whites. That blacks and whites are not in substantial disagreement over affirmative-action quotas is also demonstrated by the findings of the October 1977 *New York Times/* CBS poll on discrimination and affirmative action. Thirty-two percent of whites compared to 46 percent of blacks favored the policy of having schools reserve "a certain number of places for minority applicants, even if it meant that some qualified white applicants wouldn't be admitted." A 14-percent difference is hardly what we would call polarization.

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[1] Source: Authors' survey of 600 New York City residents, April–July 1977.

Busing for the purpose of school desegregation is another social issue related to race politics. The popular view as articulated by the media is that this issue is polarizing, with blacks supporting busing and whites opposing it. Blacks are believed to favor busing because they see it as a means to achieve racial integration and greater educational opportunities for their children. Whites are believed to oppose busing because they don't want their children sent to schools where a large proportion of blacks are enrolled and because they don't want to have large numbers of black children brought into their neighborhoods. The periodic clashes over busing in Boston, Louisville, and other cities are cited to support this view.

But the idea that whites and blacks are in conflict over busing is not supported by public-opinion data. A majority of both groups (81 percent of whites and 51 percent of blacks, according to a Harris poll conducted during the summer of 1976) oppose it, and both are in substantial agreement that one of the effects of busing is racial animosity. Fifty-two percent of blacks in our sample and three-quarters of the whites felt that "busing school children across district lines makes relations between the races worse." [1] Here again one could ignore the agreement and emphasize differences by saying that blacks were roughly three times more likely than whites to say that busing is not harmful to race relations.

Some might be surprised to find that blacks and whites on the whole oppose busing and agree that it has negative social consequences. That this is surprising is one example of how race politics produces misconceptions and false divisions. And we would expect to see the same pattern if blacks and whites were asked to evaluate the social consequences of other race-related issues like affirmative-action quotas. The bottom line of race politics is the perception that another racial group is advocating or benefiting from a policy detrimental to one's own group. Most whites do not perceive busing, for example, as beneficial to themselves, but see it rather as geared to blacks, and thus assume blacks overwhelmingly support it. And so long as whites and blacks perceive (or are told) that blacks hold beliefs different from most whites, there is potential for conflict. One solution to the conflict is to avoid sustained interracial contact. But the truth is that whites have a misconception of the attitudes of a majority of the black community and blacks appear to have similar misperceptions of white attitudes.

VICTIMIZATION AND RESPONSIBILITY

There are a number of rationales for affirmative-action policies, but none has achieved the prominence of the thesis that blacks have been victimized and whites must provide reparations. (People in our survey who held these beliefs were considerably more likely to support affirmative-action quotas than those who did not.) A fundamental idea of the black-victimization thesis is that individual effort will be thwarted by racism perpetuated by institutionalized biases in admission, hiring, and promotion practices. Even though many formal and legal barriers to achievement have been struck down, the proponents of this view point out that the more insidious effects of a history of racism remain, and thus perpetuate inequality in opportunity. Since whites are responsible for the social injustices directed toward blacks and as a group have advanced at the expense of blacks, the argument goes, they must now shoulder most of the responsibility for correcting past wrongs by giving blacks the edge that whites once had in hiring, promotion, and school admissions. This line of reasoning is what The New York Times had in mind in a recent editorial:

"One complaint of white men is that any recognition of race . . . in the distribution of opportunity is illegal. But American law itself has been an instrument of discrimination and deprivation. The courts, as well as society, have acknowledged the wrongs, identified the victims, and called for relief and remedy. And where the law served discrimination by race . . . it logically must permit relief and remedy that recognize and compensate for race."

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[1] The belief, held by both whites and blacks that busing heightens racial antagonism is not out of line with what actually occurs, according to David Armor's review of some evidence on busing. Bused students were more likely to report experiences of unfriendliness and prejudice that exacerbated racial tensions. Armor also found that bused black students were "more opposed to integration than the non-bused students."

The popular wisdom, supported by black and white elites and passed along by the national media, would say that belief in black victimization and white responsibility for shouldering the remedy splits along racial lines. Supposedly, whites feel that blacks can get ahead if they are motivated to do so and work hard, and that whites have no special responsibility for those blacks who don't; the black view is thought to be exactly the opposite. But in fact, black and white opinions on this matter, as is so often the case, are in far greater agreement than current wisdom would have us believe.

That blacks and whites are not divided over this issue is pointed up by their response to two items in our survey. (Of course, those who are inclined to see racial division will see it here, too.) One item was designed to measure the extent of public belief that blacks are victimized by asking for agreement or disagreement with the statement, "A young black cannot get ahead in this country no matter how hard he works." Three times as many blacks as whites agreed with the statement (39 percent to 12 percent); a majority of both blacks and whites were united in their rejection of this statement. Fifty-six percent of blacks and 83 percent of whites feel that a young black does have a shot at getting ahead provided he is motivated and works hard. Nor are blacks and whites substantially polarized over the question of present white responsibility. A majority of whites (56 percent) feel that "Today, white people are not responsible for the conditions of black people," and over four out of 10 (44 percent) of the blacks feel the same way. An equal number of the blacks hold whites accountable. If anything, the white-responsibility and black-victimization issues have had the effect of driving a wedge through the center of black community opinion, rather than creating a rift between whites and blacks.

On all the issues discussed above, all of which have a direct bearing on race, a lack of racial polarization is the rule rather than the exception. This is not to argue, however, that blacks and whites are in substantial agreement on every issue of major concern. The extent of agreement varies according to the issue and how it is framed. For example, the 1977 New York Times/CBS poll revealed substantial disagreement between blacks and whites over the question of whether businesses should be required to hire a certain number of minority workers—blacks generally support this policy, whites generally oppose it. Nor are we arguing that a majority of blacks oppose all forms of affirmative-action programs (The New York Times/CBS survey and many other polls provide evidence to the contrary), or that most whites are against programs geared toward helping the disadvantaged. For instance, almost all polls show that many whites are generally supportive of compensatory programs designed to upgrade the skills and opportunities of people with limited training and low income.

What we are arguing is that racial division is not automatic and should not be expected on race-related issues. Needless to say, racial conflict also should not be expected on issues not directly related to race (welfare or education policy, for example). There are very few issues on which a majority of whites line up on one side and a majority of blacks line up on the other. While on most of the issues we have discussed there was something approaching a white monolith in opinion, this was not the case for blacks. In looking for a black point of view, we see several, each with substantial support, and each in opposition to the others.

THE DIVERSITY OF BLACK OPINION

There seem to be at least two black points of view on the issues of affirmative-action quotas and preferential treatment, busing, black victimization, white responsibility, and crime control. Conventional wisdom still insists that if given the choice between tighter police control in low-income areas and elimination of "root causes" such as poverty as strategies for reducing crime, blacks would overwhelmingly favor the latter—a misconception of black attitudes toward law and order discredited 10 years ago by James Q. Wilson. Our poll shows the black community split right down the middle on the question, with 44 percent favoring "tighter police control" and the same proportion favoring elimination of the social conditions that breed crime.

Blacks, like whites, differ among themselves over policy questions when their interests differ. Differences within the black community in age, income, education, and other social and economic factors—as well as ideological differences—account for black heterogeneity in opinion. In other words, blacks hold a variety of opinions, just as do whites, and for the same reasons.

The divison within the black community over affirmative-action quotas and preferential treatment illustrates this point well. Affirmative-action policies receive their strongest support from blacks who would benefit most from them. Young blacks are one-and-a-half times as likely to support preferential treatment as blacks 40 years of age and older (48 percent to 32 percent). They are also one-and-a-half times as likely to favor quotas that could result in hiring blacks less qualified than whites. The issue concerning quotas produces considerable indecisiveness among older blacks, who are two-and-a-half times as likely as younger blacks to answer "don't know" (22 percent to 9 percent). The weaker support for affirmative action among older blacks could be linked to a number of factors including its threat to their job position because of increased competition and the conflict between values expressed in their white-dominated work environment and in their home environment in the black community.

On the whole, lower-status blacks are more likely to favor affirmative-action programs than higher-status blacks, but this tendency depends on the particular program being evaluated. Attitudinal conflict within the black community appears to be much more class-based on the issue of quotas than on the issue of preferential treatment for qualified blacks. For example, support for programs that could result in hiring blacks "less qualified" than whites drops progressively as one moves from lower to higher income groups. Blacks with family incomes under $8,000 are roughly twice as likely to support this type of program as blacks with incomes of $13,000 and above, and one-and-a-half times as likely as the in-between group. When the question turns to preferential treatment, blacks with higher incomes are just as inclined to support it as those with low incomes (44 percent each).

While many factors probably account for this pattern, self-interest appears to play the pre-eminent role. Those in the lowest income groups possess the fewest skills and lowest qualifications, and no doubt recognize their limitations when compared to persons of other social and economic groups. Racial quotas would mean more and probably better jobs than are currently available to them. Blacks with higher incomes, on the other hand, are more likely to have stronger credentials and more skills. A program of quotas would not serve their interest at all—they're already qualified—and might even make their situation worse by creating greater competition for their own jobs and giving the appearance that they might have been one of the persons hired as "less qualified." Blacks with a family income of $13,000 or over rejected racial quotas by a margin of four to one (70 percent disapprove; 17 percent approve).

While racial quotas may not be in the interest of the middle-class black, preferential treatment is, as it is for all blacks; and accordingly, support for preferential treatment, as compared to quotas, increases in all groups, but most precipitously among higher-income blacks (from 17 percent to 44 percent).

This pattern recurs when we compare educational attainment and support for affirmative action. Blacks who are college educated are more inclined to reject quotas than blacks with a high-school degree or less (82 percent to 57 percent), but are no more likely to oppose preferential treatment than those who have not gone to college. While there are probably some exceptions, there is little reason to doubt that when an issue affects various interests within the black community differently, individuals will evaluate the policy with their interests in mind and act accordingly, as we expect any other racial group would. Since affirmative action for blacks is not seen as a benefit to whites as a group, it is not surprising that whites are more united in their opposition to it. Similarly, when a law or policy directly affects all blacks, regardless of class and cultural differences—as does, say, residential desegregation—we should expect a more unified response from the black community.

Data tying black support for affirmative-action policies to age differences and class background raise several interesting points about ongoing trends within the black community that social scientists and national black political and civil-rights leaders have tended to ignore or overlook. Our findings contradict the popular conception of monolithic black opinion, especially on such race-related issues as affirmative action and related programs. Opinion is heterogeneous even among black political "influentials," as reflected in the January 1978 findings of a survey of black leaders in the nation carried out by Tony Brown's Journal, a nationally syndicated television program. When queried on the busing issue, for example, 60 percent disagreed with the proposition that children should be "bused to schools outside of their neighborhoods to achieve desegregation," while only 40 percent agreed. And this group of respondents was completely divided over the question of the motivation of whites who oppose racial quotas. Fifty-one percent felt that "whites who are against quotas are anti-black," while 49 percent disagreed.

THROUGH THE LOOKING GLASS

In light of these findings, which reflect trends that have been going on for the last decade or so, why do so many people still think that whites and blacks disagree vehemently on almost every issue? We believe this "Alice in Wonderland" perception of race relations persists because it is constantly reinforced by national black-political leaders, social scientists, and the national news media.

There is no question that at one time the black community was much more homogeneous in opinion, and—the two are intimately related—that black socio-economic status was once much more homogeneous than it is today. Prior to the mid-1960's, for example, a majority of black males had not attained a high-school degree and a majority of black families had incomes below the poverty level. But today, the socio-economic picture of the black community is very different. Blacks still compose a disproportionately large share of the nation's poor, but the overwhelming majority of black families are living above the poverty level. Indeed, the number of black families in the middle and upper-middle classes (incomes of $15,000 and above) nearly equals the number below the poverty level (28 percent for the former and roughly 30 percent for the latter). Although blacks are more likely than whites to attend less-prestigious colleges, the proportion of black college students in the total college population has doubled in the past decade to almost 11 percent, a figure approaching the proportion of blacks in the school-age population. And while blacks are more likely than whites to be concentrated in lower-status jobs, the majority of working blacks (64 percent, according to the 1970 census) presently hold white-collar or union jobs, whereas only 42 percent held such jobs in 1960. The black population cannot now be characterized as affluent or poor, educated or uneducated, skilled or unskilled, but as all of these.

A decade or more ago relations between whites and blacks were more polarized. Blacks were fighting to secure the basic rights and opportunities accorded most other Americans, and many whites fought just as hard to deny them. The civil-rights struggle grew out of an attempt to attain these rights and was successful, as court decisions and legislation outlawed most overt forms of discrimination. Today, the focus of the civil-rights movement is no longer constitutional rights but—as Moynihan and others have pointed out—social and economic issues. The consitutional issues of the civil-rights movement affected all blacks in the same way, but social and economic policies affect blacks differently, according to their class and cultural backgrounds. Thus, present "race-related" issues receive less support among blacks, and are even resisted by some. There is little doubt that the differences in life experiences, interests, and culture brought about by the socio-economic and political transformations of the last 15 years, are beginning to play a much greater role among blacks—one similar to the role they play among whites. This development and the corresponding variations in black opinion have been downplayed or ignored by social scientists, national black leaders, and the national news media.

It has long been noted that intellectuals often align themselves with causes on the left, and this was true as well of many of the social scientists who emerged from the intellectual climate of the 1960's. They were activist in orientation, merging research and social relevance, and their studies often reflected the hope that their findings would guide policy toward positive social change. Their orientation, however, had unforeseen consequences, and may have led to a result opposite to their original intentions. Consider, for example, how many social scientists explained the black urban riots. Their intention was to improve race relations, to shed light on the causes of the riots, and to ensure a massive Federal commitment to the black community by eliciting white sympathy. And so the riots were condoned in many quarters as a legitimate form of political protest, in the belief that it would be difficult to get large-scale monetary support for the black community if the rioters were viewed as criminally prone "riff raff" and unrepresentative of the black community—as the McCone Commission found in the case of the Watts rioters.

To disprove the findings of the McCone Commission and others, new surveys were commissioned, new researchers went to work, and new data were analyzed. In time a new explanation was developed, received the imprimatur of the Kerner Commission, and became the accepted social-science (and official) view of the riots. Unlike the McCone portrayal of the rioter, the new urban rioter was seen as representative not only of the black community, but indeed of the best segments of that community. In short, he represented, as T. M. Tomlinson put it, "the cream of urban youth in particular and urban citizens in general." Racism and longstanding and long-ignored grievances against the "white-dominated" political system were represented as the fundamental cause of the riots—not the class and cultural characteristics of the rioters. All blacks were lumped together as an undifferentiated mass of potential rioters with the same ideology—violence-prone with non-violent, middle and working class with underclass, religious leaders with youth gangs, shop owners with drug addicts, and looters and arsonists with non-violent political protesters.

But a theory whose structure, as one study concluded, was built on miscalculated statistics, faulty methodology, considerable conceptual sloppiness and ideologically guided data anlaysis, could not withstand protracted examination (See Miller, Bolce, and Halligan in Ethnicity, December 1976). The Kerner interpretation of the riots was disproved by that study and by others whose findings and analyses demonstrated that rioters were generally unrepresentative of the black community. They were drawn largely from underclass youth. Political grievances may have served as an impetus for some to riot, but when compared to other factors related to their class and cultural background—personal dissatisfaction, hostility, and uncertainty about the future—as well as, in Edward Banfield's phrase, "fun and profit,"—they were not overriding factors. However, it is the riot-as-political-protest view that prevails in social-science literature and textbooks today, and that shapes popular images of blacks. In portraying rioters as the typical blacks, and failing to distinguish between non-violent protest over legitimate grievances and simple looting and arson, the activist social-science view probably exacerbated American's racial difficulties. The failure of activist social scientists adequately to differentiate among groups (white as well as black), and between political protest and hooliganism, very likely increased the fear among many whites of all blacks, encouraged many to oppose all political protest as unlawful and violence-prone, and spurred sterotypes of blacks as complaining and perpetually unsatisfied and of whites as racists. There is good reason to think that although the intention of these social scientists was to produce racial harmony, the results were exactly the opposite. Explaining riots primarily in terms of the class and cultural characteristics of the rioters, instead of as a community reaction to white racism, would not necessarily have led to an active and enlightened government and public response to the conditions that produce poverty and slum riots. But if attention had been focused then on lower-class culture and its corrosive effects upon the human spirit and character rather than on the general black community, and if policies had been designed accordingly, we might have been spared some of the consequences of a criminal class that was surprised to see its behavior justified by opinion leaders.

National black elites also share the misconception that blacks are uniformly disadvantaged in socio-economic status, feel victimized, and that they disagree with whites on almost every issue. As Banfield points out, "For the race leader there is everything to gain and nothing to lose by treating all problems as if they derived solely from the racial one." By denying that class/cultural differences exist and are important in the black community, as Kenneth Clark has recently done, and by minimizing the gains made by the black middle class, black elite spokesmen also contribute to the stereotyping of blacks as poor, uneducated, unemployed, and dependent. The fact that a majority (70 percent) of blacks are not living below the poverty level, but are working, supporting families, paying taxes, and getting more education (just as are most whites) is publicly ignored. Instead we are likely to be told, as Julian Bond recently proclaimed, that "black Americans, in relation to whites, are worse off than we were the year Martin Luther King died, and in some ways worse off than when he was born almost a half century ago." This characterization by national black spokesmen of all blacks as one-and-the-same perpetuates a negative image of blacks and serves as a fundamental barrier to residential and social integration. Very few middle-class persons would jump at the opportunity to live next door to, and send their kids to school with, members of any group whose media-designated leaders constantly characterize their compatriots as lower-class, poor, uneducated, and dependent.

A substantial number of blacks feel resentful toward the underclass.[2] There is widespread belief among the black working and middle classes that welfare recipients are deliberately avoiding work—70 percent in our poll agree that "most people on welfare could work but don't want to"—and an even more widely held conviction that "all able-bodied people on welfare should be required to work" (85 percent). Many working- and middle-class blacks also reject the idea that "people who work should work should be taxed to support able-bodied people who don't work." As housing for middle- and working-class blacks becomes more available, enabling them to move out of ghettos in greater numbers, the psychological distance betweeen more affluent blacks and the lowest classes should increase even more.

Not only is the characterization of blacks by the national black leadership out of touch with the black community, but elite views on important issues diverge from the views of black non-elites and are perceived by many as detrimental to race relations. Evidence on the lact of congruity betweeen black elites and non-elites is revealed in a Washington Post/Harvard-Center-for-International-Affairs poll carried out in 1975 on attitudes of leadership groups toward quotas and merit. Seventy-four percent of the black leaders queried supported the idea that "quotas in school admissions and job hiring should be used to insure black representation," a figure that contrasts sharply with the views of black non-elites. The divergence in opinion between the national black leadership and black non-elites is also apparent on the busing issue, a policy national black elites support enthusiastically, but which most blacks not only reject but feel makes things worse.

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[2] This tension flows in both directions. As the looting during the 1977 New York City blackout demonstrates, members of the black middle class are as likely as whites to be targets of black underclass violence.

The national media tend to perpetuate notions of racial division and black homogeneity of opinion and socio-economic status. For example, a December 23, 1977 New York Times headline read: "Black America's Holiday Mood: Gloom, Suspicion, and Pessimism"; but the story was in fact little more than the opinions of several black journalists and a handful of academics. When the media is interested in black commentary on black progress they tend to turn to these national elite "spokesmen," people whose thinking is at odds with a substantial portion of non-elite views on the same subject. What's more, these black elites, like their white counterparts, tend to be disdainful of the values of the working and middle classes, and, by neglecting to note their progress or views, surely make that progress all the more difficult.

It is no accident that Republicans are now courting this growing black constituency, or that the Republican National Committee invited Reverend Jesse Jackson to address it. For as black social and economic conditions continue to become more varied, there will be greater diversity as well in black political affiliation and voting habits. As things now stand, the interests and aspirations of working- and middle-class blacks have yet to be spoken for.

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IRVING KRISTOL.

Mr. **EDWARDS**. The subcommittee will come to order.

We have the privilege of hearing from our colleague from Tennessee, Congressman Harold Ford, who will introduce our next witnesses.

Congressman Ford for many years has been of great assistance to this subcommittee and to the full Judiciary Committee in many of the important matters that we have been working on.

You were of great help to the subcommittee last week in helping us pass the voting rights bill by an overwhelming vote. We are grateful to you.

So we welcome you and you may proceed.

TESTIMONY OF HAROLD E. FORD, A MEMBER OF CONGRESS FROM THE STATE OF TENNESSEE

Mr. FORD. Thank you, Mr. Chairman, to you, Mr. Washington, and other members of this Subcommittee on Civil and Constitutional Rights.

I am proud to appear before the committee today to introduce two distinguished citizens of my hometown and my district that I represent here in Congress.

I come right behind one of my colleagues who is adjacent to me, Congressman Robin Beard. I apologize for not being here to hear all of his testimony, but I would say that you have two fine people from the Eighth District of Tennessee who will be testifying before this subcommittee.

The first person is attorney James Blackburn who is a member of the Board of Education. He is serving his second term on the school board. He has been very instrumental in bringing about the type of leadership in the city that the city is proud of.

Also we have the president of the school board in the city of Memphis, Mrs. Maxine Smith, who is also the executive secretary of the NAACP, Memphis branch. She is known for her past role in bringing about desegregation, not only in the public school system in the city of Memphis, but she also made it possible for institutions of higher education to be completely integrated in the city of Memphis and across the State of Tennessee.

Mr. Chairman and Mr. Washington, it is my pleasure to bring before the Committee two well-informed individuals from the city who have played vital roles in education, both primary and secondary levels as well as higher education.

As I understand it, Mr. Blackburn will be first and after that we will hear Mrs. Maxine Smith who is noted in the city as being a person who has been concerned over many, many years about education of the young minds of our city and our Nation.

Apparently Mrs. Smith is going to testify first.

Mr. EDWARDS. I believe we had planned to have Mr. Blackburn first. If he has stepped out, we will have Mrs. Smith first.

Mr. FORD. Maybe he missed all those nice things I said about him. [Laughter.]

Mr. EDWARDS. Maybe we will send you a transcript so Mr. Blackburn can hear that.

Mrs. Smith, would you like to proceed or would you rather wait?

Mrs. SMITH. After that introduction by my Congressman, I would not mind.

Mr. **Edwards**. We welcome Mrs. Maxine Smith. We thank our colleague, Mr. Ford, for graciously appearing and giving that introduction.

You may proceed.

TESTIMONY OF MAXINE A. SMITH, PRESIDENT, BOARD OF EDUCATION, MEMPHIS, TENN.

Mrs. **Smith**. Thank you, Mr. Chairman.

I am Maxine A. Smith, a life-long resident of Memphis, Tenn. Since 1962 I have been executive secretary of the Memphis branch of NAACP and am currently serving my third 4-year term as an elected member of the Board of Education of the Memphis city schools. I have been serving as president of the Board since January 1981.

My purpose in testifying today is to inform you about our school desegregation plan and its impact upon public education in Memphis and to assure you that a Constitutional amendment barring school boards and courts from consideration of race in the remedial context of school desegregation would, like other proposed "antibusing" legislation, have the effect of recreating a racially dual school system in Memphis.

Such a pernicious result would also occur in many other Tennessee school systems and, I am sure, in school systems all around the country. I hope and pray that the Congress of the United States will not be party to such a process.

In 1972 and 1973 U.S. District Court Judge Robert M. McRae, Jr., entered orders requiring a partial desegregation remedy for the historic racially discriminatory school system in Memphis.

At the time of Judge McRae's first pupil desegreation order in 1972—18 years after the *Brown* decision had infused new life into the dead body of the 14th amendment—the Memphis school system looked, from the point of view of race, pretty much like it had for the past century.

Prior to that time black children were deprived of even a pretense of education, they being deemed fit only for ignorance and oppression.

At the time of Brown in 1954 my predecessors on the Memphis Board of Education were operating a so-called separate but equal school system—a system whose inhumane treatment of black people was practically indistinguishable from open slavery.

Black children and teachers were declared unfit for association with their white counterparts and treated accordingly.

The State of Tennessee enforced this system, among other means, with the power of its criminal law, making it a crime for black and white children to go to school together.

It is perhaps a measure of some progress that not many people today would openly advocate a return to that racially dual and unequal system—and yet I am not so sure.

Proposed constitutional amendments to gut the 14th amendment of its promise to remedy the evil of slavery—and proposed legislation with similar effect—would, if adopted by the Congress and/or the American people, take us a long step backward toward that system—much the same effect as caused by the decision of the Supreme Court—to its eternal discredit, in *Plessy* v. *Ferguson*.

Indeed, if such proposals did nothing more than maintain the status quo, they would perpetuate unconscionable vestiges of the separate and unequal system in Memphis and elsewhere.

As I say, at the time of the first real desegregation order in 1972, the Memphis school system continued to be a full-blown segregated system. Nearly all black students continued to attend all-black schools, and nearly all white students attended all-white schools.

At that time the system enrolled approximately 145,000 students, of whom slightly more than one-half were black; 88 percent of the black pupils attended schools that were all or virtually all black, and 76 percent of the white students attended white schools.

There were only two noticeable differences between the operation of this system in 1972 and the way it operated in 1954 when it was outlawed by the *Brown* ruling.

First, pursuant to court order, faculty desegregation was underway. Second, there was less visible inequality between white and black schools.

At first blush this would appear to be evidence of progress, but in fact it was the result of a subterfuge on the part of my board of education predecessors designed to maintain segregated schooling for the long run.

The idea was that the *Brown* decision could be effectively thwarted by "equalizing" the physical plants at black schools, thereby continuing in fact the "separate but equal" system which the Supreme Court had held unconstitutional.

A Memphis newspaper reported as follows on May 18, 1954:

> School authorities in Memphis yesterday evidenced no surprise at the [Brown] decision * * * Mr. Milton Bowers, Sr., president of the Memphis Board of Education said: "We have been expecting this to happen a long while * * * We believe our Negroes will continue using their own school facilities since most of them are located in the center of Negro population areas* * * [Negro schools are] fully equal to and in some instances better [than white schools]. We are very optimistic about this [ruling]."

The following 18 years saw this effort to undermine *Brown* implemented in a massive program of construction of new schools and additions to existing schools, always on a racially segregated basis: new schools and additions were constructed in segregated black residential areas—as well as in adjacent "transition" areas designed by the forces of segregation to contain the growing black population—while at the same time new white schools were constructed in outlying white residential areas farthest from black areas.

Thus, by 1972 the "separate but equal" system had literally been cemented into Memphis life. It would have been impossible to alter this segregated structure without desegregative pupil transportation, which is what Judge McRae finally ordered in 1972 and 1973.

Unfortunately, the desegregation plan approved by Judge McRae did not include 26 all-black inner-city schools, and these schools remain segregated today.

Of the other 141 schools in the system last fall, 29 were within 10 percent of a 50-50 black-white ratio, 32 were majority white, and 109 had majority black enrollments.

Our system's enrollment as of October 1980 included 27,173 whites—24.7 percent—and 82,632 blacks—75.3 percent—whereas in

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the fall of 1970, the system had 71,435 white students—48.4 percent—and 76,283 black students —51.6 percent.

As you can see from this data, the use of pupil transportation for desegregation has had an impact on the Memphis dual system.

On the positive side, an appreciable number of black and white children are attending school in desegregated settings. Most of this integration would be wiped out if we could no longer bus students for the purpose of desegregation.

On the negative side, our system remains substantially segregated. We have made a chink in the armor of segregation, but by no stretch of the imagination can it be said that we have repelled the forces of apartheid in Memphis.

The customs of three centuries of government-enforced racial segregation and discrimination have become deeply embedded in Memphis society, and they are proving difficult to overcome.

The cure for this difficulty, however, is to press forward with the Brown principle; to build upon, rather than tear down, the hard-won progress that has been made.

The reasons why our school system remains segregated are many, but the primary reason is the abdication of leadership by the white community in promoting desegregation.

White politicians, ministers, and business leaders have continued to support segregated private schools that were established in 1972-73 to thwart public school desegregation. This is even true of members of the Memphis Board of Education.

Our mayor, Wyeth Chandler, began this litany of overt opposition to desegregation by attempting to bar the buses from the public streets, by halting gasoline allocations to the system when the desegregation plan was to commence, and by withholding money from the board of education.

This obstructionist conduct was stopped by Judge McRae, but it signaled to the white community that resistance to desegregation would continue to be officially approved.

Next, many of our white Protestant churches organized, constructed, and, with the financial underpinning of exemption from Federal taxes granted by the Internal Revenue Service, began to operate private school systems for white students.

Ministers, such as the Reverend W. Wayne Allen of the East Park Baptist Church, solicited funds from parishioners and the business community to establish the Briarcrest Baptist School System, a consortium of elementary and secondary schools that is exclusively white—complete, mind you, with an elaborate system of "busing."

Although private school enrollment in Memphis has been declining since its peak in 1974, 26,250 students, nearly all of them white, continue to attend those private schools which were created in what I believe to be the largest antidesegregation private school boom in the Nation's history.

And now in 1981, there is a renewed movement by the white business community and others to gut what little desegregation we have and return to a segregated school system.

Pressure is being generated from white families who are feeling the harsh realities of inflation and cannot afford private school tuition for their children.

This failure of leadership has also contributed to lack of financial support for the public schools in Memphis. I need say no more than that those local funding bodies—city, county, and State—have retrogressed in the funding of public education.

It is my feeling that it is because it is a system that is 75 percent black.

Since 1976–77 the city council has granted no major increase in the property tax during this period of high inflation. Last year the council, in effect, cut the school tax rate 2 cents.

That was partially offset by a 4-cent increase this year after strong debate between the Council and Board. It did not prevent the layoff of teachers and drastic reduction of programs such as physical education, music, and classes for handicapped children.

I do not know the precise extent to which proposed anti-busing legislation and Constitutional amendments would affect our desegregation plan, but one of our anti-desegregation board members who sends his children to segregated private schools optimistically predicts that under one proposal at least 80 percent of the pupil desegregation in the system would be eliminated.

Whatever the precise effect, it would impose on our community a segregated school system once again. This would be a disaster for growth and development of both races in Memphis; and such a result would have similar impact throughout Tennessee.

Some people naively believe that because a black man now occupies the post of Memphis superintendent of schools we have nothing more to worry about in terms of racial equality, the idea being that a black superintendent surely would not deny equal educational opportunities to black children. This notion ignores all of history and present-day reality.

Although our public school system is predominantly black and now has a black superintendent, the reality is that both Memphis and its public educational system, and especially the purse strings, are controlled by a white-dominated society; that the great majority of black children continue to be educated in complete racial isolation; that many of them never graduate; and that those who do somehow survive through graduation then confront the harshest of all realities—no better than one chance out of two of securing employment of any kind and practically no chance at a decent job.

Finally, it is said that the whites who have fled from the public schools in the wake of desegregation would return if we eliminated busing.

I have no doubt that this is true because termination of our desegregation plan which is the real thing that most white people in Memphis are against, woefully deficient though it is, would again make segregated white schools available in the public system, and we would be right back where we started.

The price is too high to pay, Mr. Chairman. Separate never has been and never will be equal in Memphis.

May I say in conclusion that it is frightening that our Congress would even think of tampering with our most sacred document, the Constitution, and to amend it to adjust itself to the racist views.

Again, I pray that this does not happen.

Thank you.

Mr. **Edwards**. Thank you very much, Mrs. Smith, for that splendid testimony.

I wonder if you would mind if Mr. Blackburn testified now and then both of you could entertain questions.

Mrs. **Smith**. That would be fine.

Mr. **Edwards**. Mr. Blackburn, you were graciously introduced by Congressman Ford. So you should get a copy of the transcript for those glowing remarks.

Please proceed.

TESTIMONY OF JAMES C. BLACKBURN, MEMBER, BOARD OF EDUCATION, MEMPHIS, TENN.

Mr. **Blackburn**. Thank you, Mr. Chairman.

While I have a great deal of data to present to the committee, so much of what has happened regarding our desegregation experience is subjective, I would like first to present my personal appraisal of the events.

I have some polling information that was taken locally, test scores, and other material which I will be pleased to submit to the committee should they desire that information.

What I would like to do today, if I could, is to present an accurate and honest appraisal of what happened to Memphis. Much of it, though, is subjective and is a personal appraisal of the events that have occurred.

My background is as a Midwestern transplant to Memphis with no conscious prejudice, to the extent this is possible for a white person. I was born in Parsons, Kans. and raised in Joplin, Mo.

I was appointed to the U.S. Commission on Civil Rights—State advisory committee—in December of 1962, and was an active member for over a decade, attending several hearings regarding the Memphis school system, and also made many speeches to black schools.

My wife worked as a volunteer in a large black high school setting up a successful tutorial program, and incidentally, was a member of a panel of American women which made many speeches trying to erode the patterns of segregation in our community.

While I was apprehensive about the busing plan when implemented because of the public hostility, I had hopes for its success and my child was on the first bus.

I chaired a community-wide group that attempted to allay community fears and discourage white flight. This led to my running for the school board as an at-large member, which was successful. This is my second term and I have had substantial black support in both elections.

Memphis, a city of approximately 653,000 people, consists of four board groups; at the bottom of the social and economic scale is a large poor, black population of approximately 23,000 families, mostly in the cyclical welfare syndrome. It is a sad, tragic fact in Memphis that still 50 percent of the children born in Memphis are illegitimate and 60 percent of those are junior high age or teenagers.

Next is a large population with low paying jobs—85,000 people make less than $8,500 a year. Many of these people came to Mem-

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phis from rural Arkansas, Tennessee, and Mississippi when the farms mechanized.

Whites make above the national average in income and blacks make less. To clarify that, whites make more than the national average of combined black and white, not whites only. Blacks make less than the black population generally nationwide.

Above that is a large black and white population of mainly blue collar workers who live in modest, neat neighborhoods, owning their own homes. These people have had a long tradition of middle-class living standards with education a high priority.

We now have a significant segment of more affluent blacks who generally live where they want and have identical long-term goals shared by their white contemporaries.

These various groups generally lived in separate communities, but as blacks became upwardly mobile and whites left historically white neighborhoods, they have moved creating many integrated neighborhoods.

Memphis initially had a very small percent of its population in private schools. A handful of parochial and college preparatory schools were attended by approximately 7 percent of the school population. This was immediately prior to our desegregation plan.

The school board entered into a substantial building program in the late 1960's, upgrading the black school physical plants. This, I might add, probably was an effort to avoid the busing plan of desegregation.

However, the NAACP was applying strong pressure for more integration through the courts. The school board, in 1971, submitted a proposal to redraft attendance zones to increase integration and also expand the transfer policy for all students.

This was rejected by the court, mainly under pressure from the appellate court.

There were 4,000 white students that left the system in 1971-72 as a frantic scramble started for the small remaining openings in the existing private schools—the school population went from 76,000 whites to 71,000.

The district court ordered implementation of a rather modest induced integration plan calling for the transportation of 13,789 students at a cost of $629,192 in the 1972-73 school year. The white school population dropped from 67,000 plus-or-minus, to 58,000 plus-or-minus.

The court of appeals at the urging of the NAACP rejected this plan, but it was implemented for a half year in 1973. The white school population declined in the 1972-73 school year after February to 51,412 whites.

For the 1973-74 school year, 39,904 students were to be bused at a cost of $1.68 million. The white population fell to 38,348 students after a substantial annexation of white students.

Continued annexation of white areas failed to stem the loss of white students. Memphis now encompasses 215 square miles. It is a large geographical area.

In 1974-75 the number was 34,159; 1975-76, 34,832; and the present school year, 1981-82, plus-or-minus 24,800. This school year we are somewhere in the vicinity of around 23,800.

The desegregation plan did not encompass the entire city as the annexed areas were outside the remedy area. We, in effect, had two desegregation plans. We had a plan for the city and we had a plan for the county, with two separate district judges.

The annexed area schools contained 8,000 mostly white students in 1975–76 and, if these students are deleted from our present totals, one can envisage the small number of white students left in the remedy area. That is the original city of Memphis city limits.

Over 44,366 white students left the system over a 5-year period. By every indicator, desegreation is less extensive now than when the busing program began. That is, if you take the number of schools that are all black and relate the percentages up the scale, at that time and look at it now, they are about the same.

How could this happen?

First, Memphis has a large black population. In excess of 81,000 black children now attend our public schools. The magnitude of these numbers make a successful integration plan virtually impossible.

I say that because if you look at the cities with the largest numerical black population, New York City, so far as I know, does not have a busing plan. Chicago is in the same position that we are. Detroit is in the same position that we are. Philadelphia, I am not certain. Los Angeles does not presently have a desegregation plan. Washington, D.C., as I understand, is in the same position we are.

I am not certain about Houston, Baltimore, and New Orleans.

Second, when rapid changes in housing patterns were emerging, the NAACP fought—and the court concurred—changes in the plan when neighborhoods became integrated.

The rationale was that this would create more one-race schools and that the integrated neighborhoods were only transitional anyway.

As a consequence, many buses carry black children back to the black neighbrohood they came from.

This had a two-fold impact. One, it defeated the integration of the black children who had moved to an integrated neighborhood and it weakened the possibility of having an integrated school for whites in the same area.

Third, educational standards could not be maintained without a tracking system which was strongly opposed. I say that in that there has been mention about data. We have some from a poll that was done approximately a year ago.

I will furnish the information to the committee.

Mr. EDWARDS. Without objection, that material will be inserted in the record at this point.

[Material to be supplied follows:]

Report of
Survey of Parents of
School Age Children

Conducted by

Institute of Governmental Studies & Research
Memphis State University

Sponsored by

Memphis Rotary Club

Compiled by

Dr. A. Robert Thoeny

September 1979

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Introduction

This report presents the results of a survey conducted in May and June of 1979 by the Institute of Governmental Studies and Research, Memphis State University. The instrument utilized was a seven page questionnaire (see attachment) requiring 133 responses from each individual answering the survey. The instrument was distributed by mail to a total sample of 1008 parents. Bulk rate postage was employed in mailing the questionnaire and self-addressed, postage free, "business reply" type envelopes were included for the convenience of the respondents. A total of 339 questionnaires were returned. This response rate of 33.6 was larger than might be expected given the length of the instrument and the distribution arrangements employed.

Of the 1008 questionnaires mailed, 500 were sent to parents of children attending private schools and 508 were sent to parents of children attending Memphis public schools. The names of the 500 parents of children attending private schools were randomly chosen from a list of such families residing in Memphis. Since only a very small percentage of the private school population is black, this portion of the survey can be assumed to be representative of white opinion and attitudes. The 508 names of parents of children attending public schools were randomly selected from a list of such families residing in those sections of Memphis with large majority white populations. Thus, the total sample reflects only white attitudes and opinions. Further, since the size of the two, white, target populations is unequal although the sample size was approximately equal, it would not be proper to take the combined sample of 1008 as a completely accurate representation of the opinion and attitudes of white parents with school age children in Memphis. In order to guard against just such a misinterpretation, this report and the analysis which it presents will take note of results from each subsample separately whenever it is appropriate to do so.

The survey yielded a large quantity of data, all of which is recorded in machine-readible form. These data can be correlated and combined in numerous ways that are beyond the scope of this brief report. For example, one could relate family size or income level to differences in opinions expressed about public and private education. This has not been done in this report. The report concentrates on two areas of interest: the differences, if any, between parents with children in public and private schools, and the evaluations and recommendations both groups or parents made for public education in Memphis.

Significance Levels

Apparent differences between the two populations (parents of public school children and parents of private school children) were examined for statistical significance. If this examination revealed that there existed a one in twenty ($p = .05$) or greater probability that the apparent difference was due to sampling error and therefore did not represent a true difference in the two populations, the apparent difference was judged not significant. A probability of less than one in twenty was taken as an indication that the apparent differences did represent a true difference in the two populations. The strength of this conclusion is expressed in "p" values ranging to a limit of $p = .0001$. The smaller the p value the greater the probability that the apparent difference is a true difference. Where differences between the two populations were found, the following discussion will note the "p" value associated with the relationship.

Characteristics of Parents

The two samples did exhibit common characteristics. There were no significant differences in age or in the length of time the two groups of parents had resided in Memphis (part I, questions 1 and 7). Although there was a tendency for private school parents as compared with public school parents to have experienced a greater amount of private school education themselves (part I, question 5, p = .004), this difference did not appear when considering the type of school attended by the grandparents of today's school age children (part I, question 6).

The survey revealed some pronounced differences between two groups of parents. Public school children are more likely to come from a household with only a single parent (part I, question 3, p = .002) and one which has less income (part I, question 9, p = .001). Public school parents tend to have less formal education (part I, question 4, p = .005) and are less likely to own their own home (part I, question 8, p = .0001). The percentage of non-Protestants among public schools parents is less (part I, question 10, p = .004) and they are less likely than private school parents to attend church on a regular basis (part I, question 11, p = .0001).

The portrait which emerges is of a private school parent who is more affluent, better educated, and places greater emphasis on religious life than the parent of a child in public schools.

Differences in Parental Attitudes and Opinions

Parents of both groups of children agree on several things. Both sets of parents oppose busing to achieve racial balance, and there is no significant difference between the groups in the way each views the disadvantages of busing (part II, question 5) or in the opinion regarding alternative busing plans (part II, question 5). In terms of the source of advice against attending public schools, there again was no significant difference in the responses of public school parents and private school parents. The most common source for both groups was a friend or relative (part III, question 7).

Two questions (part II, questions 7 and 8) addressed the "optional schools" program. There was a difference in the responses of the two sets of parents to these questions. As might be expected, public school parents were more likely to be familiar with the program than were private school parents (p = .03). Of those who were aware of the program, public school parents were more likely than private school parents to find the program desirable (p = .02).

This difference of opinion regarding the desirability of the public school and its programs extended to other responses given in the survey. Of those willing to make a general comparison of the quality of public as opposed to private education, the large majority of both groups thought private education to be superior (part III, question 3), but public school parents were more likely than private school parents to judge the quality of public schools as better (p = .0001). Although both groups agreed that public education was the "ideal" choice, (part III, question 6), this judgment was more likely to be made by the public school parent than the private school parent (p = .0004).

A further difference of opinion arose over the need for increased funding for public schools and the means of financing this increase (part II, questions 2 and 3). Public school parents were more likely to see the public education system as underfunded (p = .0001) and more willing to increase property taxes to support an increased funding level (p = .0001).

A modest majority of both groups believes that media coverage of the public school system is accurate and there is no significant difference between the two groups of parents in this regard (part III, question 9). The two groups did differ, however, in their desire for additional coverage by the media of public schools (part III, question 10). Both groups thought increased coverage was desirable, but public school parents took this position in significantly larger numbers (p = .0001).

Parents responding to the survey were asked to put in their own words suggestions for improving the public schools (part III, question II). These responses were read and coded in one of nine common sets, the content of which is discussed later in this report. In terms of the differences of opinion between public and private school parents, there was a mixed pattern. Private school parents were more likely to call for no more busing (p = .009), higher academic standards (p = .0001), and the reintroduction of Bible reading and prayer (p = .03). Public school parents were more likely to stress greater financial support (p = .007) and other, miscellaneous and rather specific suggestions for change (p = .05). There was no difference between the two groups regarding suggestions to employ better teachers, to employ better administrators or to improve discipline and safety in the public schools.

Parents were asked how important it was to them that schools promote certain educational goals or conditions. Each parent was asked to rate seventeen such goals or conditions (part II, question 1). There was no difference between the two sets of parents with respect to the goals of instilling national patriotism, providing quality teaching, effective discipline, basic skills, a safe environment, ability to get along with others, imparting religious values, and providing extra-curricular opportunities. Public school parents were more likely than private school parents to rate as desirable the providing of quality principals (p = .03), specific job training (p = .001), good physical facilities and equipment (p = .005), association with handicapped children (p = .013), association with children of different economic backgrounds (p = .001), association with children of different races (p = .015), co-education (p = .03), athletic opportunities (p = .008), and sex education (p = .024).

After being asked their views of the desirable, parents were asked to rate the effectiveness of both public and private schools in reaching the educational goals or providing the conditions discussed above. Their responses with respect to the public school system revealed significant differences in nine areas (part III, question 1). Public school parents rated public schools higher than did private school parents in the categories of quality teaching (p = .001), quality principals, (p = .001), discipline (p = .001), basic skills (p = .001), safe environment (p = .001), ability to get along with people (p = .001), religious values (p = .002), association with children of different races (p = .023), and sex education (p = .026). In the categories of national patriotism, job training, good facilities and equipment, association with handicapped children, association with children of different economic backgrounds, co-education, athletic opportunities, and extra-curricular opportunities there was no significant difference in the two groups.

As one might expect the ratings of private schools by the two sets of parents exhibited an entirely different pattern (part III, question 2). Private school parents rated private schools higher than did public school parents in the categories of quality teaching (p = .001), quality principals (p = .001), discipline (p = .024), basic skills (p = .001), job training (p = .005), ability to get along with others (p = .001), good facilities and equipment (p = .018), association with handicapped children (p = .001), association with children of different economic backgrounds (p = .001), association with children of different races (p = .001), athletic opportunities (p = .005), extra-curricular opportunities (p = .006) and sex education (p = .001). The only categories over which the groups did not differ in their views of private schools were national patriotism, safe-environment, religious values and co-education.

As a further check of opinions regarding the two school systems, respondents were asked to note the three greatest advantages and three greatest disadvantages of private schools. There was agreement between the two sets of parents regarding the ranking of disadvantages (part III, question 5). In order of rank these were the need for private transportation, limited contact with children from different backgrounds, financial burden, discipline policy, and academic standards. The list of advantages for the two groups was the same with one exception (part III, question 4). Private school parents ranked the advantages as discipline policy, moral or religious orientation, academic standards, association of children with similar backgrounds and social status. Public school parents reversed the order of the first two items on this list placing moral or religious orientation ahead of discipline policy. These differences in the ranking of the two advantages were found to be significant. For moral or religious orientation the significance level was p = .021 and for discipline policy it was p = .001.

Public School Image

A number of questions in the survey were included with the intention of discovering the image of public schools held by this sample of white parents. The general response to these questions produces a decidedly unfavorable image. Parents were asked to compare public and private schools as to which provided the best education (part III, question 3). Only 14.7% thought public schools to be superior as compared with the 49.0% who rated private education as superior. This result was confirmed when parents were asked to evaluate the effectiveness of public and private systems in terms of reaching specific education goals or conditions (part III, qeustions 1 and 2). In only three areas, association with children of different economic backgrounds, association with children of different races and co-education, were public schools given a rating higher than private schools. In all other areas private schools were seen as superior. This dim view of public school effectiveness is confirmed by the absolute rating given each area. In the case of public schools, the three areas mentioned above were the only ones to be rated adequate to excellent. In all other areas the average rating was less than adequate and in two areas, religious values and discipline, the average rating was between "needs improvement" and "very inadequate". In order of rated effectiveness for public schools the educational goals and conditions were:

Excellent = 1 to adequate = 2

Area	Rating
Co-education	1.7
Association with children of different economic backgrounds	1.8
Association with children of different races	1.8

Adequate = 2 to Needs Improvement = 3

Area	Rating
Athletic opportunities	2.1
Good school building and equipment	2.1
Extra-curricular opportunities	2.2
Association with handicapped children	2.3
Job training	2.4
Sex education	2.5
Ability to get along with people	2.5
Basic skills	2.7
Quality principal	2.7
National patriotism	2.8
Safe environment	2.9
Quality teaching	2.9

Need Improvement = 3 to Very Inadequate = 4

Area	Rating
Religious values	3.3
Discipline	3.4

The parents sampled generally were of the opinion that public schools received at least a sufficient amount of public funds (part II, question 2). About 46% of those sampled thought funding was either about right or too much. Only 36% thought it was too little. Even more damaging to the prospects of public support for higher funding levels was the pattern of response to part II, question 3. Only 27.4% indicated they would be willing to increase property taxes to provide increased funding while 62.8% replied in the negative.

This image of public schools was no doubt reinforced by the opinions of others. Respondents were asked from whom they had received advice to keep children out of the public school system (part III, question 7). Many apparently reached their own opinion, but a majority, 53.1% did receive some advice. Of all respondents, 34.5% (or 65% of those who did receive advice) listed a friend or relative as the source of the advice.

This was the most common category listed, but the second most commonly listed source was public school teachers, 22.7% plus an additional 2.1% who listed both public and private school teachers. This means that of those receiving negative advice about the public school system, nearly 47% were given that advice by teachers in the public school system itself.

Strategies and Suggestions for Change

In spite of the unfavorable image of public schools held by the white parents in this survey, there are indications that a change of image can be effected. That motivation for adopting a new image exists is demonstrated by part III, question 6. Asked to select the school system which they would prefer as an ideal, 59.6% named the public schools. This was greater than twice the number naming private schools. The key to altering the image of public schools is to devise strategies which take advantage of this motivation.

One should begin this search for effective strategies by examining opinion concerning the greatest obstacle to creating a new image. This of course is busing which, according to the responses given to part III, question 4, 92.9% of these parents oppose. While the elimination or substantial reduction of busing is not a practical alternative at this time, it may be possible to reduce somewhat the opposition to busing by making other modifications to the public school program.

Part III, question 5 asked respondents to indicate their reasons for opposition to busing. Responses, in order of frequence of mention, were:

Reasons	% Listing this Reason
1. Loss of attachment of neighborhood school	90.3
2. Safety of children in assigned schools	72.6

3.	Different children in our family going to different schools	67.3
4.	Length of bus ride	66.1
5.	Possibility of bus accidents	62.8
6.	Separation of the child from her/his friends	57.8
7.	Varying school schedule (beginning and ending times)	51.6
8.	Attending schools with members of another race	11.5

In the above list only items 1, 6 and 8 cannot be addressed. Objections stemming from each of the others could be met in whole or in part by modifying school and/or busing programs. The second item, safety of children in assigned schools, is not directly related to the busing program at all. Some modifications of the busing plan might reduce these objections. For example, the length of the bus ride might be reduced or item 3 might be addressed by permitting members of the same family to attend the same public school.

One last suggestion about possible modifications in the busing program is contained in responses to part II, question 6. The least objectionable busing plan of the three suggested was that of three years in a neighborhood school and three years in a bused school. Plans which involved both longer and shorter cycles were clearly less popular.

Questions 7 and 8 of part II dealt with the optional school program. Nearly half of the respondents were not familiar with the program, but of those who were about one-fourth thought the program slightly or very desirable. About 42% of those who were aware of the program indicated that they did not have sufficient information about "optional schools" to make a judgment regarding its desirability for their own children. This suggests that a greater effort should be made to communicate the details of this program to parents.

A number of questions in the survey were designed to uncover respondents' views of what a desirable educational program would be. This question was put directly in part II, question 1. Over 90% of the respondents gave greatest emphasis to quality teaching, quality principals, the teaching of basic skills, discipline and a safe environment. By comparison athletic and extra-curricular opportunities were cited as "very desirable", the top category, by only 54.6% and 56.09%, respectively, of the parents surveyed.

All respondents were asked to indicate their view of the most important advantages and disadvantages of private schools (part III, questions 4 and 5). These responses might be taken as an expression of what parents would prefer to see in an improved public education system. Of the five suggested advantages from which parents were asked to identify the three most important, academic standards emerged as the greatest perceived advantage. Next in terms of emphasis were "moral or religious orientation" and "discipline policy". The two supposed advantages receiving least attention were "association with children of similar backgrounds" and "social status". A similar result was obtained by asking only those parents with children attending private schools to rank from 1 (most important) to 6 (least important) their reasons for choosing private education. The responses arranged in order of importance were:

Reason	Mean Rank
Private School Standards (academic and discipline)	1.4
Physical Safety	2.7
Religious Values	2.7
Extra-Curricular Activities	4.1
Social Considerations (what schools neighbors attend)	4.8
Racial Balance	4.9

It should be noted that the last three were placed considerably lower than the first three in terms of importance.

Parents were asked directly to list any and all suggestions for improvement of the Memphis public schools. Responses were grouped in categories. In order of the percentage of respondents mentioning a particular category, the responses were:

Suggestion Category	% Responding
Stop busing	54.9%
Improve discipline/increase safety/ stop drug traffic/stop violence	49.3%
Hire better teachers	33.0%
Improve academic standards/improve quality of education	24.8%
Hire better principals	9.4%
Provide greater financial support	8.3%
Return to basics/emphasize the 3R's	7.4%
Allow Bible reading (teaching)/permit school prayer	4.7%

Other scattered suggestions for improvements not fitting any of the above categories were made by 29.8% of the respondents.

Finally, parents with children in private schools were asked if they would return their children to public schools provided their suggestions were followed (part III, question 12). One third of these parents answered an unequivocal yes or indicated they probably would return. Another 7.7% answered they might or possibly would return or were not sure. Only 14.2% gave an unqualified negative response. This pattern of response does offer modest encouragement for those who wish to see a return of white children to the public school system.

Summary and Conclusions

In one sense this survey has confirmed conventional wisdom regarding the attitude of white parents toward public and private schools and has produced very little in the way of unexpected conclusions. But in another sense the survey does serve to set aside some misconceptions about parental attitudes and motivations and does point the way toward changes in the public school system which might reverse white flight.

The motivations to place a child in a private school can be divided into three categories: religious, racial, and other. For those white parents who have chosen private schools on religious or racial grounds, there is no Constitutionally approved change in public education which will alter their choice. What this survey demonstrates is that, first, these motivations do exist in some white parents, and, second, that the percentage of white parents holding these attitudes is not large. A statistically sound estimate of the size of the population primarily motivated by religious or racial concerns cannot be given without additional and extensive manipulation and analysis of the survey data, but some indication of the size of these groups can be gained by a review of the responses to several key questions. Part II of the survey, question 1, asked parents to state their view of the desirability of having their children associate in the school environment with children of other races. A total of 77.3% found this to be "very desirable" or "mildly desirable" while only 14.1% said it was "mildly undesirable" or "very undesirable". "Attending school with members of another race" was the least cited of eight possible responses to part II, question 5 which asked parents to identify their reasons for objecting to busing. Only 11.5% of the respondents indicated that race was a reason. A biracial education environment was seen, in comparative terms, as a strength of the public schools and a weakness of the private schools (see part III, questions 1, 2, 4 and 5). Finally, for parents of private school children racial balance was the last in importance of six considerations in their initial decision to send their children to private schools (part III, question 8).

The survey suggests that for some parents religious considerations control their choice of private education. The responses to part II, question 1 and part III, questions 1, 2, 4 and 8 demonstrate that the teaching of religious values is an important motivation to choose private schools, although generally not as important as academic standards, discipline or safety.

While the survey results confirm the existence of racism and preferences for religious education as an explanation for some parent's choice of private schools, the results also suggest that the numbers may be smaller than previously supposed, at least in the case of racism. At the same time these survey results offer hope by demonstrating that the size of the parent population for whom race or religious education are not important considerations is quite large. Alterations in the public school system might be made so as to entice this population to return to the public school system. Further, the survey suggests means by which this can be done, specifically by making modifications to the busing program and by improving either the fact or the image of quality education, safety and discipline in the Memphis public schools.

ATTACHMENT: QUESTIONNAIRE AND SURVEY RESULTS

NOTE: Responses are shown as a percentage of N=339 unless otherwise indicated.

EDUCATION SURVEY

PART I: This section asks for some standard background information. The information will be used for statistical comparisons only. All your answers will be kept confidential. Please do not sign your name.

1. Age:
   0 18-24
   24 25-29
   89.4 30-49
   8.3 50 or older

2. Sex:
   31.6 Male
   61.9 Female (65% no response)

3. How many parents live in the household:
   12.1 one
   87.6 two (0.3% no response)

4. Which of the following best describes your education:
   2.1 no high school
   1.2 1-2 years high school
   35.4 3-4 years high school
   42.2 attended college 1-4 years
   18.3 more than 4 years of college, specify________
   (0.9% no response)

5. How much of your schooling (grades 1-12) was spent in:

Public School	Private School
9.8 years (mean years)	1.8 years (mean years)

6. Did either of your parents ever attend private schools?
   14.2 yes
   85.5 no (0.3% no response)

7. How long have you lived in Memphis?
   1.2 1 year or less
   7.7 2-5 years
   11.2 6-10 years
   79.9 11 or more years

8. Are you presently:
   8.8 renting your home
   83.2 buying your home
   8.0 other

9. Is your household income:
   2.4 under $3,000
   5.0 $3,000-$6,999
   2.9 $7,000-$9,999
   10.0 $10,000-$14,999
   17.4 $15,000-$19,999
   44.0 $20,000-$39,999
   17.1 $40,000 and over
   (1.2% no response)

10. Is your religion:
    72.9 Protestant
    17.1 Catholic
    5.0 Jewish
    2.7 Other (please specify________)
    1.8 None
    (0.6% no response)

11. Would you describe your church attendance as:
    64.0 frequent
    30.4 occasional
    5.3 never
    (0.3% no response)

12. Do you have children in:
41.9 only public schools
45.4 only private school
10.6 both public and private schools
(2.1% no response)

13. How many children do you have in: (1,2,3, etc.)
1.06 public school (mean value)
1.17 private school (mean value)

14. Please list the number (0, 1, 2, etc.) of your children who attend each type of school: (% reporting one or more)

	Public	Private	Both	Neither
Pre-School	3.8	5.0	0.0	91.2
K-3 grades	20.1	15.9	0.0	64.0
4-6 grades	24.2	22.7	0.0	53.1
7-9 grades	23.9	22.7	0.3	53.1
10-12 grades	24.8	18.9	0.3	56.0
post high school	9.1	2.9	0.6	87.3

15. If your child switched from public to private school attendance, what grade did the child begin in the private school?
2.8 grade (median value) ____does not apply

16. If your child switched from private to public school attendance, what grade did the child begin in the public school?
2.4 grade (median value) ____does not apply

17. Are any of your children bussed to a public school?
12.4 yes 85.5 no (2.1% no response)

18. What is your home zip-code:____________

PART II: This section deals with your views on what education (grades 1-12) should be like.

1. As a parent, how important is it that the school provide your child with:

	very desirable	mildly desirable	mildly undesirable	very undesirable	No opinion
a. National patriotism	67.6	25.1	0.6	0.0	6.8
b. Quality teaching	98.5	1.2	0.0	0.0	0.3
c. Quality principals	97.3	1.8	0.0	0.0	0.9
d. Discipline	95.0	3.2	0.6	0.3	0.9
e. Basic skills (reading, writing, arithmetic, etc.)	97.3	1.2	0.9	0.0	0.6
f. Specific job training	38.9	46.9	4.7	1.2	8.3
g. Safe environment	91.2	6.8	0.9	0.0	1.2
h. Ability to get along with people	80.2	17.1	0.0	0.0	2.7
i. Good school building and equipment	70.5	28.0	0.6	0.0	0.9
j. Religious values	54.3	30.4	5.6	4.1	5.6
k. Association with handicapped children	37.2	46.3	4.4	0.6	11.5
l. Association with children of different economic backgrounds	38.3	47.2	3.8	1.8	8.8
m. Association with children of different races	31.3	46.0	8.8	5.3	8.6
n. Co-education	50.7	39.8	2.7	0.9	5.9
o. Athletic opportunities	54.6	41.0	0.6	0.0	3.8
p. Extra-curricular opportunities (music, art, theater, clubs)	56.0	38.1	1.8	0.6	3.5
q. Sex education	37.2	39.5	7.4	8.8	7.1
r. Other (please specify) ________					

2. In your opinion, our public schools receive:
15.6 too much money 36.0 too little money
30.4 about the right money 15.6 no opinion
(2.4% no response)

3. Would you be willing to increase your property tax if the money was earmarked for public schools?
27.4 yes 7.7 I do not pay property tax
62.8 no (2.1% no response)

4. Do you approve of bussing students to more fully achieve school integration?
6.8 yes 92.0 no (1.2% no response)

5. If your answer to the last question was "No," please check any of the following you find objectionable about bussing: (% responding)
90.3 Loss of attachment to the neighborhood school
66.1 Length of bus ride
51.6 Varying school schedules (beginning and ending times)
72.6 Safety of children in assigned schools
62.8 Possibility of bus accidents
11.5 Attending school with members of another race
57.8 separation of the child from her/his friends
67.3 different children in our family going to different schools
____ Other (please specify______________________________________)

6. Assuming bussing is used, which plan do you find least objectionable?
25.1 3 years in neighborhood school/3 years in bussed school
13.9 bussed to one school for 6 years
2.4 changing schools every year
49.9 no opinion
(8.8% no response)

7. Are you familiar with the "Optional School" program now available within the public school system?
47.8 Not familiar 13.9 Very familiar
38.1 Somewhat familiar (0.3% no response)

8. If you are aware of this program, do you believe the "Optional School" program would be desirable for your child?
6.5 slightly desirable 11.5 not desirable
17.4 very desirable 41.9 not enough information to judge
(22.7% no response)

PART III: In this last section you will be asked questions about Memphis schools (public and private).

1. As a parent of a school aged child, how effective do you believe the public schools are in providing the following things for their pupils:

Excellent = 1, Adequate = 2, Needs improvement = 3, Very inadequate = 4, If you have no opinion as to any item please leave it blank.

	Mean values Rating (1-4)
a. National patriotism	2.8
b. Quality teaching	2.9
c. Quality principals	2.7
d. Discipline	3.4
e. Basic skills	2.7
f. Job training	2.4
g. Safe environment	2.9
h. Ability to get along with people	2.5
i. Good school building and equipment	2.1
j. Religious values	3.3
k. Association with handicapped children	2.3
l. Association with children of different economic backgrounds	1.8
m. Association with children of different races	1.8
n. Co-education	1.7
o. Athletic opportunities	2.1
p. Extra-curricular opportunities	2.2
q. Sex education	2.5
r. Other (please specify ________________________________)	

2. As a parent of a school aged child, how effective do you believe private schools are in providing the following things for their pupils:

Excellent = 1, Adequate = 2, Needs improvement = 3, Very inadequate = 4, If you have no opinion as to any item please leave it blank.

	Mean values Rating (1-4)
a. National patriotism	1.6
b. Quality teaching	1.6
c. Quality principals	1.6
d. Discipline	1.4
e. Basic skills	1.6
f. Specific job training	2.4
g. Safe environment	1.4
h. Ability to get along with people	1.7
i. Good building and facilities	1.7
j. Religious values	1.4
k. Association with handicapped children	2.5

l. Association with children of different economic backgrounds 2.3
m. Association with children of different races 2.5
n. Co-education 1.8
o. Athletic opportunities 1.8
p. Extra-curricular opportunities (music, art, theater, clubs) 1.8
q. Sex education 2.2
r. Other (please specify ____________________) ______

3. Do Memphis public schools generally:
14.7 Provide a better education than private schools
49.0 Provide an education which is inferior to private schools
27.7 Too much variation between schools to answer
(8.6% no response)

4. What, in your opinion, are the three most important advantages of attending a private school: 1 = Most important; 2 = Second most important; 3 = Third most important (Sum of points awarded as: Most important = 3 points Second most important = 2 points Third most important = 1 point)
484 Moral or religious orientation
457 Discipline policy
619 Academic standards
140 Association with children of similar backgrounds
109 Social status
_____ Other (please specify ____________________)

5. What, in your opinion, are the three most significant disadvantages of private school attendance: 1 = Most significant; 2 = Second most significant; 3 = Third most significant (Sum of points awarded as in 4 above)
671 Financial burden
358 Need for private transportation
284 Limited contact with children from different backgrounds
80 Academic standards
101 Discipline policy
_____ Other (please specify ____________________)

6. Ideally, would you like your children to attend:
59.6 Public schools
30.4 Private schools
1.5 Indifferent, both alike
2.1 no opinion
(6.5% no response)

7. Which, if any, of the following have ever advised you not to send your child to a public school: (% reporting)
_____ teacher (from a public 22.7 or private 0.6 school?) (2.1 both)
8.3 principal
8.3 minister
5.6 real estate agent
34.5 friend or relative
7.7 employer
7.4 other (please specify ____________________)
46.9 no one

8. For those with a child in private schools, please rank each of the following items (1 = most important, 6 = least important) in relation to their importance in your initial decision to place your child in a private school: (mean value)
4.8 Social considerations (which schools neighbors attend)
4.9 Racial balance
2.7 Religious values
1.4 Private school standards (academic and discipline)
2.7 Physical safety
4.1 Extra-curricular activities

9. Do you think the local media's (radio, television, newspapers) coverage of the Memphis public schools is:
37.8 Generally accurate
32.4 Generally inaccurate
24.2 No opinion
(5.6% no response)

10. In your opinion, the local media provides you with:
19.2 Enough information about the Memphis public schools
55.2 Not enough information about the Memphis public schools
20.1 No opinion
(5.6% no response)

11. In your own words, please discuss what you think can be done to improve Memphis public schools: (% responding)
Stop busing - 54%
More discipline/increase safety/stop drugs/stop violence - 49.3%
Improve academic standards/improve quality of education - 24.8%
Return to basics/emphasize the 3 R's - 7.4%
Allow Bible reading (teaching)/permit school prayer - 4.7%
Hire better principals(administrators) (leaders) - 9.4%
Hire better teachers - 33.0%
Provide greater financial support - 8.3%
Other, miscellaneous improvements - 29.8%

12. For those with a child in private schools: Would you send your child to a public school if these improvements were made?

33.0 yes, probably
14.2 no, probably
7.7 maybe/undecided/possibly
45.1 no response

Thank you for your cooperation! Please return this questionnaire in the attached, postage-paid envelope.

Mr. **Blackburn**. We were trying to determine how we could attract back white students. We had 500 parents who had their children in private schools and 500 who had their children in public schools.

I think the data would be interesting and I would be glad to furnish that to you.

I think it is close to 96 percent were still opposed to busing. It was interesting that when you got into it as to why. One of the major reasons is the educational opportunities in the receiving school.

We attempted, through the school board, to have programs that would permit a certain amount of tracking in the school system so that those children would not lose ground educationally.

This was opposed because it was felt that this would resegregate the classrooms in the schools. ESAA grants also carry a stipulation that you cannot realize tracking in your school system.

Fourth, schools with a declining white population were not allowed to group these students to maintain a cultural identity.

I have seen situations where even though there was a very small minority of white children in a school, if it had been possible to keep those children, or a substantial portion, in a single classroom, that those children would stay. It need not be a 100-percent situation, but some substantial percentage.

We had schools, many schools, where there were 25 or less white children in that particular school. Quite frequently, the numbers are very, very small.

The Little Rock School Board attempted to do this recently requiring in situations where a small percentage of one race were in attendance at a particular school that there would be no less than 35 percent of one race assigned to a particular class.

The Federal court struck this down almost immediately. I think it took them about 3 days.

But if things like the above could have been permitted in order to accommodate the small numbers of whites who were participating in the plan, it would have helped. By not permitting any sort of tracking system or clustering of the small numbers of whites allowing cultural identity, they eventually were lost from the school system.

I have seen it happen 100 times in individual cases.

In so many instances where we had situations that I felt that the time had come to stabilize the neighborhood that had become integrated, this was not done and when it was done in the few instances it was permitted, it simply was too late.

If you let a school lose all its white population and then you permit a change, it is too late. You have to catch a school while it still has some white representation in it and then do something, not after it has become a one-race school.

Sixth, failure to recognize that white parents would not permit busing their children to historically black schools if they had an economic option.

Everything that I have seen, and certainly it has been our experience, that two-way busing has been a failure. I am sorry to say it, but that certainly has been our experience in Memphis.

The justification for requiring two-way busing is that it fairly equalized the burden and did not place the total burden of busing on black students.

I concur that this is a very noble motive. Also that it is important for white students to be sent to a particular black school so they can see the problems of black people and recognize the cultural identity that they have.

Again, I cannot argue with that. That is a very noble motive. We just cannot make people do it. If they have an option, they will not. I do not know anything to do about that. It is just a fact that we have had to recognize and live with.

Seventh, as whites fled, certain black leaders discovered that an entire school system had fallen into their laps, and they were reluctant to give up this power.

I know that we espouse very noble positions in meetings like this. But at the last meeting we had on this subject on December 9, 1980, these were the remarks actually made by the black commissioners. This was discussion to try to come up with ways by which we could get white students back.

First, support of public schools is not dependent on participation by the parents of white children.

The implication that only white people pay taxes is false was second.

Third, our obligation was only to educate those children in the public school system that were largely black and poor.

Fourth, we should not waste one minute determining how to get white children back in the school system.

These are actual remarks in the school board meeting. They are not noble statements made before grand committees.

Another black member said that "those politicians and/or individuals who oppose spending tax money on public education because of a lack of white participation are malevolent."

I agree; that is true.

"We have no evidence that if we changed the desegregation plan white people would return to the school system."

There is no evidence that the lack of participation has hurt. In other words, white people are still buying goods in Memphis and the sales tax is the principal source of funds.

We should give our best to the system regardless of participation.

Finally, we should concentrate on the existing plan in children.

So even though you are hearing a lot of noble statements by civil rights leaders, these are actual statements that occurred in a meeting, the purpose of which was to see if there were some way we could get more white participation in schools.

The idea emerged among the blacks who set policy that if they could maintain the old plan to the point where the whites in the urban center were reduced to a very small number, they would force the school board to seek an interdistrict remedy, or seek one themselves.

One of the main problems that we have had as we have worked through these problems is that the other side always seemed to have something else on the agenda.

For instance, when we got in the situation where we had transitional neighborhoods, where we could hopefully stabilize the schools, we were not permitted to do that.

The reason was that it would create more one-race schools and that would not be good. We thought the purpose was to create integrated neighborhoods, and to have neighborhood schools for those particular areas.

We have been blocked on every occasion that we have attempted to do that.

Now we are not permitted, even though we have satellites that assign 500 white children, none of which show up for a particular school assignment, to change that school assignment. We are still, right today, turning down 3,400 students, plus or minus, a year, white, who want to attend a school with black children.

A feeling on the part of this same group that any relaxation of the plan would reward those whites who had fled the system to avoid participation in the original plan.

As an example we have made numerous proposals based on the fact that we had black children located in every school throughout the system. It was thought that if we could have find some way to permit the whites who were living in the neighborhoods surrounding these schools to attend, we could create a number of successful desegregated schools.

It was obvious that in-town busing was not going to work. But had had some success with optional school programs.

We went back into court and attempted to create some additional optional school programs that would permit the children to attend these schools, regardless of their school assignment.

We were opposed by the NAACP and the Legal Defense Fund. That program was defeated. Some were permitted, but the great majority were not. I think that this was the turning point so far as Memphis is concerned not in having a successful desegregation plan.

The unwillingness of a people living in a society with a wide choice of options as to how they will live their lives, raise their children, pass on cultural values, to be forced into another mold.

As recently as 1979, 92 percent of white parents still opposed busing while not objecting to attending school with children of other races.

The school system, with the imposed school assignments from the Federal courts, is really an island of compulsion in an otherwise free society. Some people call it tyranny. Certainly it is a question of you either do what you are told or you have to get out of the public school system.

This has focused publicity on public school systems and made their job more complex. We are the only institution that has that sort of thing occurring to it. It has created a great deal of animosity toward school systems which I think is undeserved.

Fear that their children will not be safe when taken out of their neighborhood for the school day.

Schools are microcosms of the communities where the children come from. They can be hostile environments or they can be very sweet and very nice.

I personally in my experience have not felt that my children who have attended six of our schools were in any danger. What happened initially and caused a great loss of white students was a situation where they would come in to the newly assigned school and were asked to give students $1 or $2 or some small sum of money.

This received a lot of publicity. Apparently the experience was fairly widespread. A lot of people were very sensitive at this time and left the school system as a result.

Those parents who were interviewed about why they were not participating in the school system indicated that safety was a important factor.

There are unclear objectives, both for blacks and whites. Both found themselves in a situation neither had asked for, often out of their community.

Both communities had ethnic cultural values that they considered important but which were different and sometimes not shared.

This has led to schools that are mere shells without any spirit. With most schools largely black, naturally their will prevailed and the few white children in attendance were isolated, lost.

I do not mean this in any malevolent sense at all. But a school does have a personality and that personality is developed and comes out of the students who attend it. In a largely black school, a particular cultural identity is goinq to be reflected. The small number of white children in that school will feel isolated and often will develop the same feelings of inferiority that we were trying to remedy in the minority group.

Philosophically exactly what is the purpose of a desegregation plan.

Is it to have all children conform to white middle-class values? I do not think we would say that. But what is the purpose?

This has been a problem. It is obvious that those values are not particularly highly prized except by white parents.

It was hoped at one time that white children would be role models for black children. That has not proved to be the case. The role models for black people are still the same—other black people.

The underlying rationale has not been clearly defined or understood. So far as I know, black people have not clearly told black young people what the purpose of attending a white school is, or why they were being sent there. In other words, what they are to get out of this.

Likewise, white people have not spoken clearly to white young people as to its purpose. I am certain there is a rationale, but again, this lack of understanding has been a difficult problem.

Most civil rights gains were accompanied by legislation reinforcement or court orders that coincided with a change in public attitude. That is the 13th point.

Examples are unrestricted use of public facilities. The legislation that brought these about clearly has been successful. It is hard to imagine now that a time existed when this was not the case.

Again, integrated housing is just now emerging, with black people living anywhere they want in Memphis and being accepted. Neighborhoods are stabilizing and black people are well accepted.

Job opportunities at the white-collar level where blacks supervise whites is another example of change.

Unfortunately, this concern never happened with busing which was developed and enforced by the least democratically orientated branch of our Government.

This was aggravated by the lack of underlying legislation to reinforce their activities. The judiciary tends to lack the resources, the time, the feedback, or the flexibility to deal with a complex social problem like this.

A Federal judge cannot talk to a school board member in a case pending before it except in that short period of time during which the hearing is occurring and testimony is being offered.

In the case of Memphis, much of the desegregation, implementation has come out of Cincinnati, Ohio. Maybe one or two of those men know something about Memphis, but most of them do not.

At the appellate level, the court divides into three panels so that you have three judges who hear your case and frequently decide it different from another three judge panel within the same appellant court handling another city.

We have had situations with our district judge where he held one way one time and another way another. It is difficult to get a handle on it.

What can be done?

Regretfully, at least in our community, induced desegregation accompanied by busing is not going to be accepted. We have had 10 years experience and we still have the vast majority certainly of white citizens who reject it.

Both the white and black community find it not worth the cost—now $5 million annually for busing alone—nor the resulting community discord.

We have spent over $30 million during the period of time in which we have had school busing. At the same time, we cannot air-condition our schools and are going to have a tough time feeding our children.

I feel that it has added tremendously to the public discord in our community. Prior to busing, the dialog between black and white citizens was increasing. There seemed to be a real attempt on the part of the white community to find out more about our black citizens and see what could be done to resolve community discord.

That conversation has stopped.

Our experience would indicate that anything done voluntarily will work. Everything; we have tried—magnet schools, community schools, drawing on both black and white students from surrounding neighborhoods—where there is not the element of compulsion, has worked.

I feel that anything that you gentlemen can come up with that will avoid compulsion will work.

Before whites will attend a school outside of the natural boundaries of their neighborhood, the school must not cost their status—however they perceive it, which differs from place to place—must meet their educational objective and be safe.

People are unwilling to sacrifice the educational level of their children for any reason—or their safety.

So far as the black community is concerned, many of their aspirations have been met. Blacks are now in control of the pupil service instruction department—and have been now, 4 or 5 now for four or five years—curriculum development, and a black as superintendent directs the system. Access to local funds is fairly distributed and most Federal funds are spent for black young people.

Memphis faces an extremely difficult time ahead. Presently, a third of our income comes from Federal sources, much by way of transfer payments. We have an economy of approximately $5 billion, of which $1.7 billion comes from the Federal Government.

A heavy burden is being shifted by the Federal Government onto the productive sector of our local economy, paying for services, the most expensive being school and medical care.

What I have noticed is that there are few school systems in the country that have similar problems to that of Memphis. It seems to be the attitude that every Government agency that we deal with: "We understand but you have a problem. We are just going to cut you loose and you are going to have to do the best you can with what you have."

What we have is not much. We are one of the poorest communities in the country.

Industry has tended to avoid Memphis. This is not something they are going to tell you directly, publish, or print. But I have heard it many, many times.

We have had a loss of jobs. We have not kept pace with industrial work as we should and we have a terrible unemployment problem in the city of Memphis which I think is going to become more aggravated as they see the problems we have.

Not having a school system is one of the principal reasons given why industries will not locate in Memphis. They say that our schools are so messed up that they will not locate there.

We closed 16 schools last year. Most were historical white schools—not all were. We, at one time, had 171 schools and we now have 151 schools. We had to reduce our teaching staff by 700 positions last year.

Industry tended to avoid Memphis first as a result of the 1968 race riots and later because of the school situation.

As a community, Memphis is prepared to see busing come to an end. As a school system, we are prepared to act fairly and teach all children effectively in their neighborhood schools, or provide a variety of options for those seeking a different environment.

While busing was a grand experiment, in my opinion, its usefulness is over. If something is not done to intervene, then I think it is likely all communities will go through a spasm of new desegregation plans involuntarily.

We certainly have been threatened with an interdistrict plan as is occurring in St. Louis and other communities. I think we are going to go through the entire process again which resulted in what I feel was a tragedy for our community.

This will have the same result with more turmoil and confusion, more bitterness and further weaken the school systems and urban centers which can afford it the least. For that reason, I recommend to the committee that they give the citizens of this country an opportunity to express through Congress and the State legislatures their opinion on a constitutional amendment.

Thank you.

Mr. EDWARDS. Thank you very much.

Mr. Washington.

Mr. WASHINGTON. Thank you, Mr. Chairman.

I want to thank Mr. Blackburn for an interesting testimony. I want to ask Mrs. Smith a question.

Mr. BLACKBURN. Mrs. Smith and I agree on everything but this. [Laughter.]

I say we agree, and we vote together 99 percent of the time on things that come before the school board, but we have a disagreement on this.

Mr. WASHINGTON. And what you disagree on is the agenda for the day.

On page 5, Mr. Blackburn says anything done voluntarily will work. I assume he is talking about Memphis. What would be your response?

Mrs. SMITH. Let me look at the context.

Yes, I see where you are referring to, Mr. Washington.

I disagree with that statement because we have gone with the era of allowing white children, as well as blacks, to transfer to minority situations.

I know of no instance during that period where one white child volunteered to transfer to an all-black or a predominantly black school.

That is one example as to why I think the Supreme Court had to revoke its own stand and reverse its own stand on freedom of choice.

Freedom of choice in Memphis, like in cities across the Nation, has not produced desegregation and by no means integration of schools.

Mr. WASHINGTON. So experience is contrary to the statement of Mr. Blackburn; is that right?

Mrs. SMITH. Yes.

Mr. BLACKBURN. Let me say this.

We had a series of magnet schools in Memphis. The way those are set up is that you take the existing black population in that school and as long as you come up to a situation that approximates the number of black children in that school, then a white child, regardless of its school assignment, can be transferred to that particular school.

Those schools are filled. You cannot get in them now.

So to say that will not work is not true. It will work. If the attraction is there and if the components that I mentioned are there, then it will work. They will break the door down.

Mr. WASHINGTON. You talk about anything being done voluntarily and I assume that includes magnet schools.

Mr. BLACKBURN. The schools that we have that work—and we only have about 16 schools where there is any substantial white population in them—comes to this. Those schools that draw on two neighborhoods, black and white, with a school physically located between them.

That was the experience that was related to me when we had plan A which was an abbreviated plan when we started desegregation. We also have a series of optional schools which meet the criteria that I mentioned where children voluntarily go to those schools. They work out very nicely.

As I said, we had black children presently located in every school in our city. We have turned down 3,400 students a year who want to go to those schools.

This is because the schools are physically located in the neighborhood.

Mrs. Smith and I disagree strongly on this. It seemed to me that as we were in this process that you could go one of several ways. Some worked and some did not work. We knew that busing children back to black schools would not work.

We did have some indication, however, that if we permitted those children who lived in the neighborhood to attend the school where black children were already being bused that that would work.

That would have accomplished two things, in my estimation. One, it would have given the black children who were, after all, having to make the long bus ride, an opportunity to go to an integrated school once they got there instead of having those students bused out somewhere else.

Also, one of the major problems that the city of Memphis has is getting enough white people to engage in the integration experience with black people. It may not be as desirable as having two-way busing is concerned, but at least it was a gain of some sort.

Those children who engaged in that experience would have benefited.

I say, and still say today, that children who have had an integrated school experience make it such that the white and black problem will never be the same again.

I feel that they will not have the same racial attitudes that their parents had. Hopefully we could create a new generation of students who knew each other and had had an opportunity to get up close and to see what the other person looked like.

But for some reason or other the NAACP has felt that this was not a goal that they deemed worthy. To avoid being bused to historically black school would have been appeasement which is the term that is used.

Mrs. Smith will tell you that as soon as I finish.

So, I feel that much could have been done to prevent ending up in the position we are in now. But we certainly have lost a lot of opportunities.

Mrs. SMITH. Mr. Blackburn has just told a lot of half-truths and untruths and made a lot of distortions.

First of all, earlier in his testimony he implied that the black members of the school board, as well as the NAACP, were against optional schools.

The board of education has unanimously approved optional education as one of our most attractive and effective means of education.

The NAACP's defense attorneys have also given nothing but praise. But when Mr. Blackburn and his group tried to prostitute the use of our optional schools to attract those white students who had become a part of the integrated schools and who were located in neighborhoods which had been traditionally black or tried to create a plan that would put those who have not come into the schools and who have not remained in the school system, but just in optional schools, then that is the aspect of optional education to which we have objected.

That is the misuse of optional schools and not the premise of optional education.

I think it is good. It is one of our better programs, as I have said.

Mr. Blackburn picked out a few statements which are isolated and out of context in a meeting that perhaps only two people attended there with the two of us.

What conclusions can you draw from those statements? What conclusions? Right this minute I do not know what they were, but I do remember that they distorted some of my beliefs and some of my feelings.

Mr. Blackburn forgets the fact that we have open schools. We have Oak Haven School, which is a walk-in school. It is surrounded and is deep in the heart of white community. It is a predominately black school.

We have allowed those white kids to walk into that school. The presence of the black schools there has kept those white children from being bused. I proposed that resolution myself.

Perhaps I should be talking to the chairman. You talked about the Winchester and Garden View and Ford Road that has been referred to. I do not know whether it was applied negatively or positively because people have a way of applying things the way they want to when they write them down.

But I made a proposal that we let those children walk into those schools; because that neighborhood, just beyond the airport beyond Winchester, at that time, as far as residential patterns were concerned, was not "titled," which is the term that white folks use. That was defeated by the majority vote of the white members on that board of education.

Mr. Blackburn knows well that as of November 15, by agreement of a majority of the present board of education, the lawyers for the NAACP Legal Defense Fund and the lawyers of the board of education are scheduled to come up with some kind of agreement that would rid us of the worse elements of the so-called plan Z and give us a better plan.

Mr. Blackburn failed to say that this was the most obnoxious of all the plans presented to the court, but it was a plan that was accepted by the court. I had a plan drawn up which was not acceptable, by the board nor the district court, but it—the plan accepted by majority vote of the board and the district court—was drawn up by one of the most racist members of the board of education.

That is the plan that has failed. I have never liked that plan.

But by November 15, besides all this stuff that has been brought to the committee, we will have a plan. I have seen material that is terrible. It is a known fact that we have come to a point in our system—and this motion started with Mr. Blackburn, that is, we look over plan Z.

I would have voted against it because we were involved in too many new things at that time. At that particular point in history we were too busy.

I have one more thing to say, Mr. Chairman. The superintendent of schools came up with a plan of desegregation that reflected the philosophies of nine members of the board of education, which is almost an impossibility. He did everything because nine of us are crazy in different sorts of ways.

But he came up with a plan that would effectively do everything that everybody asked for and because that plan violated the sacrosanct districts of Memphis, it was defeated.

We referred to Ridgeway schools. We referred to Raleigh and other districts where these children escape having to ride a bus. This plan, which is the first honest document I have seen emerge from that school system was presented.

In addition to being one of the first members of the board on this restructured board and because of my position with the NAACP, I have been with this case since its beginning in 1960.

That is the first honest document that was ever presented to this board, the one presented by Dr. Herrington at our request. It was rejected because it would make white students who had never been transported be transported.

Those are just a few of the distortions. I have underscored some with language that could not be used in these hallowed Halls of Congress.

Mr. WASHINGTON. I yield back to the chairman.

Mr. EDWARDS. Our hearings to date have indicated—and it seems to me that it might be true here also—that where there is community support and where the power structure of the community gets behind the law, when the court issues an order—that is the law in accordance with the Constitution—most of these plans work pretty well.

We have quite a number of cases where the integration of schools with a certain amount of busing has been successful.

But where the leadership—newspapers, preachers, the business leaders, and so on—start out hostile and end up hostile with no intention of going along with the court, then the plans break down.

I have listened carefully, and I have seen no indication from your testimony, Mr. Blackburn, except for your own personal efforts which I compliment you on, that the power structure of Memphis did anything but try to sabotage the court's order.

Starting out with the mayor making an announcement and doing the illegal things that he did—did somebody jump on the mayor?

Mr. BLACKBURN. Mr. Chairman, I think it would be an oversimplification if you came away from these hearings feeling that that was the solution or not the solution.

One of the big problems we had was the magnitude of the numbers.

If you look at the school systems with the sort of black and white breakdown and population——

Mr. EDWARDS. Let us say 50-50.

Mr. BLACKBURN. This original plan that was introduced which Mrs. Smith has criticized, is criticized because it left some black schools out of the plan.

But, in fact, it involved a 50-50 breakdown with the exception of one or two schools. There were enough white students assigned to each school to make that school a 50-50 school.

In subsequent proposals we have assigned more white students to those schools to try to bolster them up. It still has failed.

I have no doubt that the community attitude and those people who shaped the community attitude has a bearing, but there were a lot of people, including myself and many, many people in Memphis, who did, at that time, support the school integration plan. It failed anyway.

As I said, we know the givens after that will cause a white family to decide to place a white child in a school which is integrated.

I feel we have had many opportunities over the years that we have been involved in this plan to bring this about.

Mr. EDWARDS. Can you provide the committee with newspaper articles and speeches and so forth where the community got behind the desegration plans and urged the parents to obey the law and urged the people to be friendly and to work toward a solution of the problem?

Mr. BLACKBURN. I was not on the board at that time. I do not have a clipping file.

Mr. EDWARDS. Do you think this exists? Or was the mayor typical?

Mr. BLACKBURN. I think the mayor was—let me put it this way.

We had a recent election in Memphis which was a mayoral election and almost 100 percent of the white population voted for this mayor and 100 percent of the black population voted for his opponent.

But again, there was community support for the proposal. There was some effort on the part of the establishment to see it succeed, but also there was a tremendous amount of confusion and hostility.

It is obvious from the figures so far as the white flight is concerned that that happened. In Congressman Ford's district, it has lost 90,000 white people out of that district during the period that we are talking about in terms of the desegregation.

Many of those people picked up and moved to suburbs and moved out of the remedy area. Many of those people simply left Memphis all together.

If we had been talking about a smaller group of black people being involved, we would have had a more manageable situation. I do not feel sorry for any school system that has a busing program that is dealing with a 30-percent black population.

I feel that if we had been in that situation that we could have dealt with it.

However, we were in a position where we were losing white students in terms of 10,000 a year. We lost 2,000 last year. It continues.

You do not have the flexibility to deal with a situation like this, then this is one of my criticisms with the court.

They said on the front end that the mere fact that you had white flight was not a rationale for changing the remedy.

So, we cannot go into court unless we have some consent agreement with the NAACP and the Legal Defense Fund because in reality what has happened to the plan and its failure, is the white flight that has occurred.

There is not much we can do so far as making changes in the plan is concerned. This would not have any legal merit. This is because of what happened; that is, the white flight.

We have been back to court twice. Once we did get some relief in the first year that we went back. The second year we came back with some extensive requests for changes in the satellite proposals contained in plan Z. There were a whole group of options schools, which were the magnet-type schools.

The NAACP opposed the satellite changes and I think most of those were defeated. All of them were defeated, as I recall.

They agreed to a few of the magnet schools, but they opposed a great many others. Those were defeated.

So, that is the situation that we are in now.

Another thing that the committee ought to look into is this. What are the goals of the desegregation plans and when do you meet the goals? Is this going to be an ongoing process that goes on forever? Or, is there some point where you actually say that you have met a particular goal and from that point forward you can say that the system ought to be operated on a colorblind basis.

That is the way it is with every other civil rights remedy that I know of. There is a goal that you are attempting to reach. It might be an employer who has a sufficient percentage of black people employed in his business and then once he has done that, the court or agency is satisfied and he is let off the hook.

So long as he operates from that point forward in a colorblind fashion, then he is outside the pail of that particular law.

But, in this particular situation we are being asked to operate without any particular goals in mind. Here we have spent 10 years and lots of money and we are further behind than we ever were.

We once actually had in the particular area that we are talking about 44,000 more white students than we do now. Obviously whatever we do we will never be able to recapture that situation.

So, what are the time limits involved? What are the goals? How can you meet them?

Something that will permit more flexibility than we now have is desirable. We now have a situation where the courts apply different remedies to each particular school system.

For instance, in Tennessee, that is, in Nashville, we have a countywide desegregation plan. Chattanooga has a restricted remedy area. We have a restricted remedy area and Knoxville does not have any busing plan.

When you go across the country, you have different district courts ruling. Some feel that a busing remedy is necessary and in someplace else they hold it is not.

Why should Los Angeles be any different than Memphis? Yet, Los Angeles does not have a busing plan. New York does not have a busing plan.

It seems like there has been some inconsistency. The Supreme Court has, for 2 years, done nothing. It has been strictly a hands-off situation so far as school board cases are concerned.

I understand now that they are reopening some school board cases and will come forth with some new rulings. It has been a long time since the Supreme Court looked at what was going on and defined for us what our goals are and what is actually going to happen.

Mrs. SMITH. Let me respond directly to your question, Mr. Chairman, about the effect of political leadership and business leadership and religious leadership and educational leadership which they might have had on Memphis.

I do not want to go all over the country. In a sense, I am confining myself to Memphis.

Our mayor has been completely hostile. He has appealed to the very worst in the citizens of Memphis in the desegregation of schools and the desegregation of housing and any aspect of American life.

He has been obnoxiously nasty. He has led people like puppets to follow his doctrine.

This has had a trickling down effect to the city council and the majority of which are just as basically as racist and give just as poor leadership as others.

I have been clipping for a long time. I have clipped every article since this school suit was filed on March 31, 1960.

So, I can give you the evidence for the committee.

Mr. EDWARDS. Thank you. We would appreciate that.

Mrs. SMITH. We have had this kind of leadership on every level of local and semi-local government, meaning county, State, city, administratively and legislatively.

What hurts me most is that it has been even on the school board. We have had school board members run for the purpose of destroying public education and who brag that they will not send their children to public schools. Mr. Blackburn knows this.

Somebody asked me to mention the fact that one of his children is not in public schools. I think he has good reason and I do not want to deal unfairly. He has good reasons in his mind for not sending one of his children there.

But I am insulted by the statement that Mr. Blackburn said—talking about having less blacks. I am puzzled by the statement he made.

I think Memphis had the best opportunity to be a model for desegregation of schools all over the city on one condition alone and that is because through the years we had maintained a nearly 50-50 balance of the races.

I know what racial discrimination is. My child was the first to go to a 100 percent white school. It hurt me to hear him being called "snowball." He was laughing and was being called ugly names.

What makes the white child so sacred that the white child cannot be exposed to blacks who are far more loving and who are far more docile and particularly in those days when desegregation was outlawed by the Supreme Court of this Nation.

Mr. Blackburn, I want you to tell me mathematically—that was not one of my strong points in school—but I want you to tell me how we could exclude one-third of all black children from a system that was 50 percent black in the desegregation plan under which we operate now and still leave the schools 50-50 black and white?

I want to know how that comes out. I have never had anything beyond geometry.

There was reference made to the fact that we lost 2,000 kids last year. That is true, but it has nothing to do with desegregation. Mr. Blackburn knows that as well as I do.

We have maintained around 75 percent or 76 percent black school system for a period of 4 years to 5 years. We had predictions that in the early 1980s, because of the birth rate that would have children ready for school, that the black population would bypass the white population.

There is no need for us to pretend that things that have happened insofar as flight is concerned continued to happen today.

Mr. Blackburn asked about the goals. The goals were well spelled out when the Supreme Court gave its decision in 1954. Separate but equal is basically, or rather, inherently unequal. The Court declared segregated public education illegal.

So, I think anybody with average sense should be able to see what the goals are. We have not attempted to go beyond those goals. We are struggling, and we have struggled for 27 years.

You talk about what we have done for 10 years. If we have done anything for 27 years, we would have some progress. Memphis neighborhoods, 27 years ago, were desegregated.

But once more the leadership in Memphis, including (in the wake of the 1954 Supreme Court decision, that is), the superintendent of schools, did nothing. In some instances he even went into neighborhoods telling whites to move out. "The blacks are coming. Get away from that school."

This is the kind of leadership we have had. But until the NAACP on March 31, 1960 filed a suit to desegregate the schools, we waited.

The Court clearly said that the burden rested on boards of education across the land. Ours, like others, did not take its responsibility.

Mr. EDWARDS. Mrs. Smith, I want to thank you.

We have another witness that we have to hear. I will yield at this time for a question by Mr. Washington.

Mr. WASHINGTON. Let me finish my line of inquiry.

I take it, Mrs. Smith, that you are saying this: You have attempted a voluntary system and none of it has worked for reasons you have given; is that right?

Mrs. SMITH. That is right.

Mr. WASHINGTON. Also, do you think that in light of the attitude toward desegregation and busing in Memphis, voluntary plans have any chance of working?

Mrs. SMITH. No.

Mr. WASHINGTON. Third, what is the feeling of the black community in Memphis relative to busing and desegregation?

Mrs. SMITH. I have not taken these polls that the white folks take. My measure would be this. My position is well known. I perhaps am the most disliked person in Memphis, Tenn., by the white community.

My position is well known by my constituency which I consider this. When I was first elected I lived in a 60-40 black majority district. I happen to have had a heart attack on the day I was to announce. I was an absentee candidate with three other opponents—one white and two black.

All were taking advantage of the racial makeup. This was in 1971, the year of the *Charlotte-Mecklenburg* decision. The blacks were included for political gain, using antibusing.

I did not even deal with busing because that is the court's domain. I was overwhelmingly elected without a runoff.

This is an indication to me that blacks support what the NAACP is doing. I am not the NAACP, but I am just a worker for the NAACP. But they support our ambitions.

Mr. WASHINGTON. I never knew it was a goal. In fact, I personally rejected it. But it was never perceived, as I understand it, that the purpose of integration was that white children should be role models for black children.

That is not the purpose; is it?

Mrs. SMITH. I did not hear you.

Mr. WASHINGTON. Is it one of the purposes of integration that white children should be a role model for black children? I was never aware of that.

Mrs. SMITH. Not at all. Not at all. We live in a society made up of different people and we should recognize those differences and accept those differences and profit from those differences.

Mr. WASHINGTON. There should be an interchange of ideas and backgrounds and cultures and subcultures. It is a question of getting to know each other rather than being role models for each other; right?

Mrs. SMITH. I am glad you brought that up because I meant to tell Mr. Blackburn about another insulting thing he said.

Mr. BLACKBURN. May I respond?

So far as polls are concerned, I am not sold on it. But there are polls. The Public Interest Journal, in a 1979 issue, has some polling information which I would be glad to make available to the committee which indicated that 81 percent of whites and 51 percent of blacks, according to the Harris poll conducted in 1976, opposed busing. Both are in substantial agreement that one of the effects of busing is racial animosity.

There was a further poll which was done and which was supposedly among black political influential people in January 1978 by Tony Brown's journal. It had 60 percent disagreement with the proposition that children should be bused to schools outside their neighborhood to achieve desegregation, while only 40 percent agreed.

The reason I said that one of the initial purposes of having integration was that white children would be role models was that I attended an NAACP education committee meeting back prior to the time of busing where it was indicated by the membership there that they felt that by having white children in proximity with black children in a school setting that they would act as role models and help motivate black children to a higher achievement.

That was the rationale behind my statement. That was stated at that meeting.

Mrs. SMITH. Mr. Chairman, I cannot let that end there. That is not the position of the NAACP. It never has been. The inference that blacks must have white presence to learn came from white people and not black people.

Our only address to white presence is that resources have followed white children, not black children. White folks have made busing the issue and white folks have made white presence a necessity to learn.

Black people have not gone for that. Do not put that on me as a black woman or on the NAACP.

Mr. WASHINGTON. On page 2 at the conclusion of some strange statistics which are demographically interesting, Mr. Blackburn, you say:

> We now have a significant segment of more affluent blacks who generally live where they want and have identical long-term goals shared by their white contemporaries.

I do not think I understand what you mean. If you are trying to say here that upward motivated blacks have identical goals with whites, but that the lower income blacks lack those goals, then I think you are on shaky ground.

What do you mean by that?

Mr. BLACKBURN. Mr. Washington, it has been my observation——

Mr. WASHINGTON. First of all, deal with the goals. What are the goals? Spell out the goals.

Mr. BLACKBURN. I am talking about long-term goals, educational goals, that involve postponement of present pleasure for the purpose of gaining skills so that children will acquire more education and higher affluence.

I have seen it too many times to feel that can be brushed aside.

Mr. WASHINGTON. Where did you get that hocus-pocus? What makes you an authority on low-income blacks when you make a statement like this which obviously and clearly is based not on logic or empirical wisdom, but just taken out of the sky.

First of all, I doubt whether you know what the long-range or short-range goals of black people generally are, and specifically, of lower income people.

But you pluck out from our community what you call the middle-class blacks and equate their goals with white people generally without any separation between white, rich, poor, and otherwise and uneducated or educated.

Then you imply with this sentence that lower income blacks do not share these austere beautiful goals which you talk about in your previous statement as white culture.

I do not know where you get this stuff.

Mr. BLACKBURN. I agree that it is a shared culture.

Mr. WASHINGTON. It is a subjective feeling that you have.

Mr. BLACKBURN. Mr. Washington, we have schools in our system that are academic schools. Black people in your position economically and in your status go to a lot of trouble to attend the schools. That is not shared generally in the black or white community.

We have people who share common education.

Mr. WASHINGTON. You are making it worse.

Mr. BLACKBURN. No, I am saying that you, I, and Mrs. Smith have the same identical economic and social goals.

Mr. WASHINGTON. You do not know anything about me. You do not know what my goals are.

Mr. **Edwards**. I must think about our other witness. Both of you have been very helpful. We had some sparks flying here and there. That is healthy. The committee appreciates your testimony. We thank you both.

Our final witness today is Ms. Suzanne Hittman, who is the president of the Seattle School Board. That city has had an unusual history with respect to school desegregation and in light of the administration's changed policy in this area, one that becomes more interesting every day.

We are interested in knowing what is going on in Seattle today. We are pleased to welcome you. We are sorry we kept you waiting. I apologize to our staff for not being able to pose questions to the previous witnesses.

Please proceed.

TESTIMONY OF SUZANNE HITTMAN, PRESIDENT, SCHOOL BOARD, SEATTLE, WASH.

Ms. **Hittman**. Thank you, Mr. Chairman.

After what we have just heard about Memphis I feel that I am coming to you from almost paradise.

Mr. Chairman and members of the committee, I am proud to be able to present to you today Seattle's experience with school desegregation.

I just want to add a parenthetical note that you may have just heard that the Supreme Court yesterday has agreed to hear the case of our challenge to a statewide initiative to thwart our desegregation efforts.

The Seattle School District instituted a systemwide desegregation plan in the fall of 1978. Adoption of the Seattle plan followed 15 years of unsuccessful attempts to desegregate Seattle's school system using all possible voluntary methods—from voluntary transfers with free transportation to an extensive magnet schools program.

Between 1963, when voluntary desegregation efforts began, and 1977, the last year before the Seattle plan, racial imbalance grew steadily worse.

The number of segregated schools and the degree of segregation within schools increased. Moreover, minority students bore a greatly disproportionate share of the burden of movement since few whites volunteered.

The Seattle School Board and community leadership in Seattle have had a long-term commitment to school desegregation.

When it became apparent that the best voluntary efforts possible were not capable of desegregating Seattle's schools, a local consensus formed to desegregate without court intervention.

I think in line with your last bit of questioning, this may help to respond to it from Seattle's point of view.

Local business leaders, religious leaders, political leaders, and civil rights organizations jointly urged the Seattle School Board to implement without court direction a locally developed and controlled desegregation plan.

The school board responded by:

One, adopting a definition of racial imbalance—minority enrollment at any school more than 20 percent above the district wide minority percentage;

Two, requiring that desegregation occur through educationally sound strategies; and,

Three, initiating a 6-month process of citizen planning activities, which culminated in December 1977 with adoption of the Seattle plan for elimination of racial imbalance.

Local media have been strongly supportive of Seattle's efforts to maintain local control of this issue.

The Seattle plan relies on roughly equal numbers of mandatory and voluntary student reassignments to accomplish desegregation of the schools.

Where voluntary strategies appear incapable of achieving desegregation, elementary schools are desegregated by joining together the populations of two or three neighborhoods in pairs or triads.

For example, students from both neighborhoods in a pair attend school together first in grades 1 through 3 at one site, then in grades 4 through 6 at the other site.

Thus, students are assigned on the basis of their neighborhood and not individually on the basis of race.

Students brought together in the elementary grades remain together at the secondary level. Neighborhood students stay together throughout their school careers if they so choose, and students have predictability and stability in their assignments—both factors which Seattle citizens indicated were important in any desegregation plan.

Equity of movement is also a key feature of the plan—roughly equal numbers of minority and majority students participate.

Parents and students have the opportunity to select voluntary alternatives to their initial fixed assignments, which has no doubt enhanced community acceptance of the plan. Program options include both program content and teaching style alternatives.

I would like to leave with you some copies of what we referred to as the Seattle plan, which was mailed to the parents and guardians of all the students in the spring prior to a school year so that the parents have the opportunity of making a choice regarding a program option.

It describes the Seattle plan briefly also, which you might like for your reference.

Although we are not dealing today with the diversity of populations so much and their language, the forward of that has a comment regarding our schools in not only English but eight other major languages that our school district serves.

Mandatory desegregation is more cost-effective than voluntary. Voluntary desegregation transportation costs over two times as much per student as mandatory because scattered student movement is less efficient than transporting entire neighborhoods together.

Enhanced program content at magnet schools is an additional expense of voluntary programs, although with tight funding Seattle is operating its option programs at baseline levels as much as possible.

In spite of the drastic decline in Federal desegregation aid and the tremendous uncertainties of school finance generally in Washington State, Seattle will attempt to preserve the voluntary features of its plan.

The Seattle plan has successfully desegregated Seattle's schools, and educational quality has been enhanced. All students now have the opportunity for a multiethnic education, which Seattle citizens believe is essential to preparation for life in this pluralistic society.

There have been no adverse educational effects. Achievement scores have risen slightly districtwide, and, in fact, achievement gains in the pairs and triads appear greater than in other district schools.

The Seattle plan has not had a harmful effect on white enrollment. Before the plan, enrollment had fallen steadily from nearly 100,000—over 85 percent white—in 1963 to under 60,000—65 percent white—in 1977.

In the first 3 years of the Seattle plan, the proportion of white students in the district declined roughly 3 percent per year, the same rate as in the 3 years before the plan.

Had it not been for the influx of thousands of Asian immigrant students, the drop in the proportion of white students this year and last would have been closer to 1 percent.

And it appears that school desegregation has played a part in slowing, and even reversing, the trend toward greater residential segregation in some portions of the city.

Seattle has adjusted peacefully to desegregated schools. At the last local property tax levy election, a near record rate of voter approval—roughly 80 percent—was achieved.

At the most recent school board elections, pro-Seattle plan candidates defeated anti-Seattle plan candidates. Several efforts to stop the plan, including a statewide initiative—the one I referenced earlier which the Supreme Court will be hearing—and recent legislative action, have been resisted successfully by the school board in the courts.

Last spring, after lengthy citizen involvement, the Seattle School Board adopted a 3-year plan of school closures and complementary changes in the desegregation plan.

Continued local control of desegregation has permitted modifications in the plan to be made on an educationally sound basis, and with minimum disruption.

Seattle is now prepared to make further progress. The city council and school board have jointly adopted goals calling for coordinated action to encourage residential integration.

With cooperation of city, school district, and housing officials, Seattle should be able to reduce the need for mandatory assignments over the long term.

We believe the Seattle experience demonstrates how proper planning and responsible leadership can produce school desegregation that is successful educationally and successful in stabilizing a city school system.

Where elected officials do not ignore their oaths of office but instead discharge their constitutional obligations, the courts and the Federal Government need not intrude in local school governance.

We urge the committee to refrain from any action which would impair the ability of local school districts to desegregate with local control, or which would impair their incentive to do so.

Thank you.

Mr. **Edwards**. Thank you.

Mr. Washington?

Mr. **Washington**. Clearly, Seattle had the support of its leaders. You say there was a long-term commitment.

What makes the difference between a Seattle and a Memphis? Is it in the quality of the leadership?

Ms. **Hittman**. I could not assess the quality of leadership.

I think part of it, maybe, is Western politics which tend to be a little more free-spirited. We tend not to be drawn quite as much along party lines.

I believe that it is the real desire to see the city move forward. It still is in the heavy growth pattern. It has a steady industry and still desires to attract industry to the community.

I think some of those factors are there. I think we have some progressive leadership, both in the mayors that we have had and in the city council members. They are nonpartisan.

I think we have to look at the method of selection there.

The school board is an independent body and not really dependent on them for a tax base. There are a lot of factors regarding the makeup of our Government structure itself which assists in this.

The city has long recognized the role that the schools play. We have a lot of joint agreements on properties, for example, where the parks abut school grounds. We even have one project where we jointly own a building.

So, I think there is a long history of cooperation and perhaps all those were contributing factors.

The main thing and the last thing for us was a real desire. As some of us would go to national meetings and we had persons coming to the city who had been in districts where they had been through a lot of desegregation and court battles.

But our mayor was one of the leaders in that. The mayor we had prior to the present one was a leader. His experience in contact with other mayors was how disruptive this was to an entire city should we begin a court battle.

Through that he even brought in some outside consultant persons to work with his own city government people about the role that the city played in seeing to it that there would be a peaceful desegregation effort and that we would not go in court and have the subsequent battles which would erupt.

Mr. **Washington**. What do you think would be the effect of the Supreme Court ruling if it is against your plan?

Ms. **Hittman**. We would be involved in a lot of litigation where groups would bring action against the Seattle school district claiming past segregative acts.

So, I find it totally ironic that the school district, or at least one in this Nation, and I can speak for Seattle, which has tried to integrate its school system without court intervention has constantly had to battle through the courts to continue to be able to provide that kind of opportunity for its students.

I feel proud to be a part of that school board, but it is an irony.

Mr. **Washington**. If the level of leadership in other locals is trying to spill in and corrupt what you are doing, then what happens?

Ms. **Hittman**. I object, particularly if persons at this level would ever pass anything that would prevent us from doing the very thing that we were elected to do.

Mr. **Washington**. Thank you.

Mr. **Edwards**. Mr. Boyd?

Mr. **Boyd**. Thank you, Mr. Chairman.

You indicated that it is ironic that your jurisdiction may be forced to bus or may have its voluntary system declared illegal.

Would not mandated busing in the two-way system which has been described before the subcommittee cause you problems financially and logistically?

Ms. **Hittman**. Would you repeat that?

Mr. **Boyd**. I am talking about two-way busing.

Ms. **Hittman**. I do not know if this is in direct response to your question, but I think we have some components of that two-way busing which are critical to maintain.

Moving the neighborhoods together is critical. We do not have to pick children out by race. This is critical. I think that is a very important thing that our citizens want.

This must be continued. If you are referencing if we should try implementing anything that is all voluntary, we have tried every voluntary strategy in the world. They do not stimulate that kind of movement.

Mr. **Boyd**. I am not talking about the all-voluntary system. I am talking about a system like your own which apparently has been created by the efforts and diligence of the city council and the school board without the need for Federal court intervention.

Much of what has caused some consternation in this body is the presence of court-mandated intervention.

Ms. **Hittman**. If that became such as it is, it would force us into a corner.

Mr. **Boyd**. There was an article in the New York Times in 1978 in which your program was described as an effort to retain black-oriented schools and to frustrate white flight.

Could you explain for us what you mean by black-oriented schools?

Ms. **Hittman**. Could you read me the quote again?

Mr. **Boyd**. The quote is:

> The program, based on proposals by the local branch of the Urban League and refined through public hearings, attempts to insure that desegregation will not eliminate black-oriented schools or drive white students to the suburbs.

Ms. **Hittman**. The Urban League plan was a straight pairs and triad which is a little bit different and eventually was adopted.

Where it says "black-oriented schools," I think you would have difficulty today saying there is a black-oriented school. I think the purpose at all times in Seattle was to have the opportunity for every child to get an education, black or white or Asian.

Mr. **Boyd**. Have you found that in order to eliminate or to frustrate white flight, to the extent that you have done that, it is important to keep the majority or nonminority student population?

Ms. **Hittman**. No.

Mr. **Boyd**. You only have 17 percent black population and 14 percent Asian; is that right?

Ms. **Hittman**. The total minority population in the school district this year is 45 percent. So, with the definition of racial imbalance, as I told you, we do have schools that are 65 percent minority.

The one other factor of that definition is that no one minority group—that is, if it were 50 percent of one minority population group could be no greater than that.

So, that has not been the problem because in some of the schools which are not involved in the desegregation plan which are paired or triaded, but which are magnet schools, then some of them are predominantly not white. The whites have come into those schools to create a better balance.

Mr. **Boyd**. You find that magnet schools work?

Ms. **Hittman**. They can work. You do have to be involved in racial identification in their creation. They are costly. We were frustrated in our last session of our legislature with attempts to thwart our ability to get moneys for transportation.

You do have to maintain a lot of controls. We have used Federal moneys in order to put in additional staffing in those schools. We are not going to get the money from our State legislature in the condition the finances are in at the moment.

I do not hear anything encouraging coming from Washington that you are going to be able to assist local school districts in providing additional money that you need for these magnets to attract the students.

Mr. **Boyd**. But you find they are useful?

Ms. **Hittman**. They form a safety valve in the Seattle system. It gives them an option when the person has the reassignment which is described in our booklet. They can select another program.

But they will be involved in movement.

Mr. **Boyd**. What would happen in a magnet school system if funds were cut off and that alternative or safety valve were not open?

Ms. **Hittman**. I think it would have some detrimental effect. I think they have been very well accepted, but the thing that they are always looking for is, for example, we do a baseline funding and everybody receives the same. The Federal aid has provided an additional person in a school, for example, to do some of those additional things or the creation of new materials or the creation of the person's being able to buy new materials and this kind of thing.

This is what the parents want to know as to what is the difference in the other program.

We have a very creative and dedicated staff, but when we were doing our budgeting this spring, if we once more asked people to dig into their creativity or for the private sector to begin to provide funding for some of these additional things, then we already have private sector involvement and we have them being supportive of certain schools within the system, particularly those involved in desegregation.

But the private sector is not going to pick up that amount of money for these extra things we need in schools.

Mr. **Boyd**. Thank you.

Thank you, Mr. Chairman.

Mr. **Edwards**. Ms. Cooper?

Ms. **Cooper**. Thank you, Mr. Chairman.

You have indicated that the voters of Seattle seem to approve of the Seattle plan as evidenced by their vote on the school board elections recently.

What other evidence is there to indicate that the people of Seattle support the Plan that is being implemented?

Ms. **Hittman**. I described about the school closures that we are involved in. We went through some elaborate hearings.

Complementary to that was discussion about the future of the desegregation plan. I am sure if I were a person who was opposed to the plan I could pick out 1 million other instances, but I think this was quite graphically illustrative of persons coming from what was a predominately white community who had difficulty going into this plan with a lot of questions as to its effectiveness and so on.

It was those very persons who came back to us when we were going through the hearings last spring and said: "Don't change our program." These were white parents and the students who said that they provided them opportunities and exposures that they would not have had if there had not been this involvement.

We feel that it is a good thing for our community and a good thing for the receiving community.

So I think there is evidence of comments like that that perhaps are the most potent thing we can receive in addition to the voting that we discussed earlier.

Ms. **Cooper**. What then was the nature of the referendum vote? Why did the people of the State vote to not permit you to implement this plan?

Ms. **Hittman**. We have to look at a couple of things there. I am sure if you went to any State and said: "Do you want to have mandatory reassignment of children?" and although the language was carefully worded, I am sure you would come up with a similar vote.

The important thing we need to know is that there were two legislative districts in the State of Washington which did not support the initiative.

Of those two legislative districts both are in the city of Seattle and both have been involved in our voluntary program from its beginning. I think that is significant.

I think it shows there is great acceptance and persons have an understanding and can be involved in a program. It certainly proved true in those two legislative districts.

But I think the comments regarding it, as they went out in their advertising regarding it there was a lot of fear tactics used also, particularly in the suburban communities around Seattle.

The inference was that if you do not support this there was a chance that your children would be bused into Seattle schools and "you do not want that; do you? Won't you sign this initiative and won't you vote no?"

So, I think the detractors played on every fear that the persons have in the State of Washington and probably elsewhere as well, as well as the myths.

Ms. COOPER. So the vote in support of the referendum came from people and parents whose children were not part of any kind of desegregation plan?

Ms. HITTMAN. Yes. Those two legislative districts had the longest experience and it was defeated there.

Ms. COOPER. Previous witnesses have stated that in no place have voluntary plans been given a sufficient opportunity to prove whether or not they can achieve desegregation.

From your experience in Seattle, would you say that conclusion is correct?

Ms. HITTMAN. No, I would not.

Since 1963 the Seattle schools have been involved in voluntary programs of one kind or another. I think I pointed out in my testimony that most of the movement is minority youth. The majority youth tend not to move.

I think that is significant. On the magnet schools, if you do not do selection on the basis of racial criteria, you could have movement of everybody in your system and still not achieve any type of racial balance unless you maintained some racial criteria for entrance into the program.

Ms. COOPER. Would you expand on that?

Ms. HITTMAN. If we wanted a student composition of 50 percent black and 50 percent white in a given school, or we were developing a school that was to be a school where the performing arts were the major focus, then we would have to set up some criteria because if we took every applicant then we could theoretically end up with an all-black or an all-white school.

Ms. COOPER. So magnet schools then are not color-blind; is that right?

Ms. HITTMAN. Not as I hear persons who are detractors of mandatory systems talk. They will tell you that voluntary will work.

It will work to achieve desegregated systems and that is true, but that is provided that you have some established criteria by which they will be admitted to those programs. You are going to have to carefully look at the racial balance that you want to achieve in contrast to, for example, our pairs and triads which are moving entire neighborhoods. We do not pluck out black students to go here and Asian students to go there.

So, you cannot have it both ways on the voluntary.

Ms. COOPER. So for voluntary plans to work they have to be combined with some mandatory aspects?

Ms. HITTMAN. We certainly found that was necessary. We have what is jokingly referred to among some persons in Seattle as a mandatory plan with a voluntary backup. In some districts you will hear that you have a voluntary plan with a mandatory backup.

But we preferred first to keep our neighborhood children together. We do have some integrated neighborhoods. That was very important to those persons that their children be able to go with the children who live on their block.

Ms. COOPER. If you could sum up, what would you say are the advantages of being able to create a desegregation plan without being under court order to do so?

Ms. HITTMAN. There are numerous ways. We were able to develop the processes by which a citizen would be involved without having to ask an external body. We developed the definition of what constituted a racially imbalanced school. We were able to get the citizen input to put it together with what would be educationally sound strategies.

We do have, for example, the ability for education with sound reasons to maintain some schools which are and continue to be racially imbalanced.

One good example is our bilingual orientation center. We have so many Asian immigrants who are moving into the area that we maintain a school for them to be in no longer than about 10 weeks. But we have to maintain this for the orientation because they are new to the country. They need some opportunity to bridge the cultures initially and learn some things.

We have that opportunity. My concern would be that if we were under court order we would not have the opportunity to make educationally sound strategies our uppermost goal. Education is what we are about and not busing.

We have that latitude. In Seattle we have it. I think that is a very precious thing that we can maintain for our students.

Ms. Cooper. After the implementation of this plan, did private school enrollment increase?

Ms. Hittman. There are more private schools in our area. I am not willing to accept that it totally is a phenomenon of the desegregation. I think there are several other reasons.

One is that we went through two teacher strikes, and that kind of labor unrest had some persons leaving the system.

We also have not had stable financing at all from our State. We have been in litigation against the State and the State is to assume more financing. We thought we would have more stability. The State is in bad financial condition.

Those are some of the other factors that make persons leave the public school system. There is labor unrest and the financial instability and they are not certain what the program is going to look like.

We do have some growth of private schools and we are beginning to see the growth of what I believe you have had in other parts of the country and that is the Christian school which is the basic elementary fundamental school. There is a growth of that beginning at this time.

Ms. Cooper. Thank you.

Thank you, Mr. Chairman.

Mr. Edwards. Why are you being sued?

Ms. Hittman. Which time? [Laughter.]

Mr. Edwards. What groups have been suing you?

Ms. Hittman. We had a group called the VIC, which is a citizen group, which was for "voluntary integration." They attempted to thwart our efforts to be able to vote on the plan initially and then to implement the plan.

What we have referred to as to what the Supreme Court will be hearing is what the staff member asked about and that was voted by the citizens.

Most recently we were in court because a member of our State legislature was successful in passing a measure and our Governor choose neither to veto the bill nor to sign it. He felt it would be best if the courts dealt with it, costing the taxpayers more money. The bill would not permit us to receive reimbursement for transportation for our students, particularly if they were reassigned for the purposes of desegregation.

So those are some of the bodies that we have been in court with.

Mr. **Edwards**. How does the minority community feel about your plan?

Ms. **Hittman**. The minority community has some detractors, but I believe as a whole I can say to you they are supportive. Their concern is that the school board will once again pull back from what has been some movement forward in an effort to desegregate the schools because they have seen this touch and go over a period of years since 1963.

Their concern is that through the failure of not having enough money or through some other guise that we will pull back again.

Mr. **Edwards**. What can the Supreme Court do to you?

Ms. **Hittman**. What they will probably do is they will bring us in court on the basis there has been past segregated acts in the district to create a segregated school system.

The irony of this is this. If we were to assume the Supreme Court rules this is constitutional and if Seattle were to revert back to pre-Seattle plan, then we would have a segregated school system.

I cannot believe that the Supreme Court wants that to occur in Seattle. If it does, I think we all need to rethink our priorities today.

But that is where we would be which would be a segregated school system by action of the Supreme Court.

Mr. **Edwards**. This has been very helpful.

If there are no further questions, we want to thank you very much for your testimony.

We have learned a lot about Seattle. We compliment you on your plan, and we thank you.

The subcommittee is adjourned.

[Whereupon, at 4:20 p.m., the subcommittee was adjourned.]

SCHOOL DESEGREGATION

MONDAY, OCTOBER 19, 1981

House of Representatives,
Committee on the Judiciary,
Subcommittee on Civil and Constitutional Rights,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:45 a.m., in room 2237, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards and Schroeder.

Staff Present: Janice E. Cooper, assistant counsel, and Thomas M. Boyd, associate counsel.

Mr. **Edwards**. The subcommittee will come to order.

As we all know, the Supreme Court in *Brown* v. *Board of Education* based its holding on the conclusion that "separate is inherently unequal." In evaluating the progress of school desegregation, however, Americans of all races seem to want more than merely an end of separatism; they want a demonstration that the educational experience is improved, particularly for minority children.

Although not constitutionally required, this is certainly a reasonable demand. How are children doing under desegregation plans? How should we measure their academic progress? What factors seem to improve the performance of these children? Is integration itself a crucial factor or can compensatory education in all-minority schools be a successful alternative?

Our witnesses today have studied these questions. They are in a position to provide information that can play a pivotal role in the continuing debate over the wisdom of our current policy on school desegregation.

If the three members of the panel can come sit at the witness table, I will introduce them. The panel members are Dr. Robert L. Crain, principal research scientist with the Center for Social Organization of Schools at the Johns Hopkins University, and also senior social scientist at the Rand Corp.

Dr. Crain will speak first. And then Dr. Meyer Weinberg on the right, director of the Horace Mann Bond Center for Equal Education at the University of Massachusetts in Amherst. And finally, Dr. Norman Miller is professor of social psychology at the University of Southern California. All of these gentlemen have written and edited numerous scholarly works on this subject, too numerous to mention. We welcome you.

Dr. Crain, you may proceed. Without objection, all of the statements shall be made a part of the record in full, and you may proceed as you see fit.

TESTIMONY OF ROBERT L. CRAIN, PRINCIPAL RESEARCH SCIENTIST, CENTER FOR SOCIAL ORGANIZATION OF SCHOOLS, JOHNS HOPKINS UNIVERSITY AND SENIOR SOCIAL SCIENTIST, RAND CORP.; NORMAN MILLER, PROFESSOR OF PSYCHOLOGY, UNIVERSITY OF SOUTHERN CALIFORNIA; AND MEYER WEINBERG, DIRECTOR, HORACE MANN BOND CENTER FOR EQUAL EDUCATION, UNIVERSITY OF MASSACHUSETTS IN AMHERST

Dr. CRAIN. I was invited to come here today because I have done a great deal of research on the question of the impact on school desegregation on achievement. I was originally asked to analyze this question by Willis Hawley and Betsy Levin, cochairpersons of the National Review Panel on School Desegregation Research.

I looked at the research on white achievement in desegregated schools, and I found that a number of reviews of that work had been done, and every reviewer had concluded that white scores were not affected by desegregation. I don't think I know a single social scientist who believes that white scores are either enhanced or harmed by desegregation. So I decided that that question was settled, and concentrated instead on black achievement.

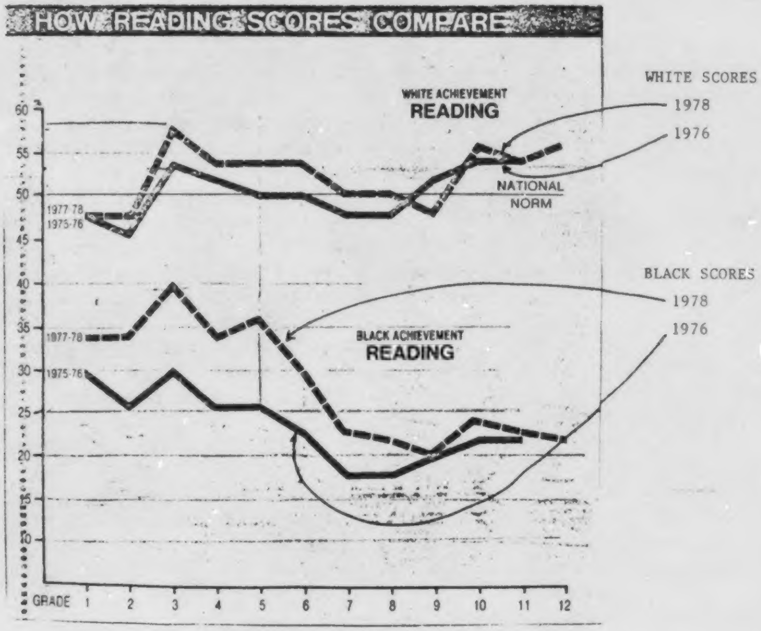
I located 93 studies, each done in a single community undergoing desegregation. Slightly over half of these studies conclude that black test scores are enhanced by desegregation; most of the rest conclude test scores are unaffected, and occasionally a study argues that black test scores are harmed by desegregation.

I spent over a year reading all of these studies, and found that the reason why there was a disagreement among them boiled down to some questions about the way the research was done.

The most important fact is that desegregation is not necessarily beneficial in the first couple of years, because black students who start out in segregated schools and then suddenly switch over to desegregated schools apparently do not benefit academically.

It is only after the first few years, when the students who started desegregation at first grade are tested, that you begin to see the achievement results, and I can show you one set of results from Jefferson County, Ky., that is, the city of Louisville and its suburbs, if I can make this contraption work. The chart shows test scores for each grade of the system, for white students and black students separately.

ACHIEVEMENT TEST SCORES,
JEFFERSON COUNTY (LOUISVILLE) KENTUCKY



Source: The Louisville Times, May 13, 1980

The black lines are the year immediately after desegregation. They show a set of white test scores which are very near the national average. These are percentiles; 50 is the national average. They were around the national average pretty steadily from the 1st grade through 12th. The set of black scores started out low and generally became lower with older kids, and there was a considerable difference between the two groups.

If you then look at the test scores only 2 years later, in blue we see essentially no change from the white scores. They are slightly higher than they were but not much higher.

For the black students, in the upper grades, the students who were seventh graders and who had begun desegregation after fourth grade, we essentially don't see any change. However, if you look at the group of younger students, students who are in, say, third, fourth or fifth grade, whose desegregation had come early in their careers, we see a quite sizable jump.

Now, let me mention how large that is. It is very hard to know when you have a small difference and a large difference. One way to state it is as follows: Suppose I were the dean of admissions of a rather selective technical university, and I said that my students were such that I would only take students in the top third of the high school graduating class of the United States.

Suppose I had 600 black students applying, and their scores looked like the black student third grade scores in 1976. Out of that 600 I would take 100. The remaining 500 would fall below my admission standards.

If I had a group of graduating black high school seniors whose scores looked like the third grade scores for 1978, 2 years later, I would have taken 150 instead of 100, a 50-percent increase in the number of students I would take. That is quite a large difference, and I am not sure that I would pay a great deal of attention to it if it where the only study of its kind, because this is, after all, only one metropolitan area.

But I also found 18 other studies in cities where the students were desegregated beginning at first grade, and where it was possible to make a comparison between students who were desegregated black students and segregated black students so I have got a strict comparison between those who were in segregated and in desegregated schools.

That may sound obvious, but in fact in most cities when you do a desegregation plan every student gets desegregated and consequently it is hard to find a group of students who are still segregated to compare them to.

They are in the South: Nashville, Tenn.; Beaufort County, S.C.; Gulfport, Miss.; De Kalb County, Ga.

In the Northeast, there is Hartford and New Haven, Conn.; New Rochelle and Rochester, N.Y.; Newark, N.J.; in the Midwest, Evanston and Peoria, Ill.; Ann Arbor and Grand Rapids, Mich.; Minneapolis; in the West; Pasadena and Berkeley, Calif., and Las Vegas, Nev.

Twenty-three different researchers had studied 45 groups of students in these cities and 40 out of 45 times their test scores had increased as a result of desegregation. The average gain across those 45 groups of students in those 18 cities was about the same as I found in the Louisville-Jefferson County study.

Most of these studies were done by statisticians in the school system research departments. Six of these samples of students were studied by the best possible research design, in which a lottery was used.

Groups of students were selected by lottery. Both groups were tested. One group was then assigned to desegregated schools and the other group left in segregated schools. All six of these studies find that the desegregated students' achievement went up faster than did the achievement of the students in the segregated groups and the gains are slightly larger than the gains in Jefferson County across those six studies.

I am, at this point, quite convinced that desegregation raises the test scores of black students without harming the test scores of white students. I also found 13 studies which looked not at achievement tests but at IQ test scores, and I again found a consistent increase in IQ, apparently as a result of desegregation.

The studies that I have reviewed all deal with single communities, but the national assessment of educational progress has been studying the educational performance of American young people for some time now, and they have found across the Nation that black test scores have been rising markedly and faster than white scores in the past few years, and they found that again especially true in the Southeast, where there has been the most desegregation.

They normally don't attempt to put any interpretation on the results, but when they first began getting these results their own advisory panel said that this seemed to them to be evidence that desegregation in the Southeast was raising test scores.

There has not been very much research on Hispanic students. What little there is is at least consistent. The Coleman report showed higher test scores for blacks in predominantly white schools, and also found higher test scores for Mexican-Americans and Puerto Rican students in predominantly Anglo schools.

More recently, Mahard analyzed data from the large national longitudinal study of the high school class of 1972, 20,000 high school seniors done by the National Education System, and she found that Puerto Rican scores, Mexican-Americans living in the North and West and other Latins all had higher scores.

The exception is Mexican-Americans in the South, where test scores were not higher in Anglo schools.

The question remains, "Why are minority test scores improved by desegregation?" There are very few social scientists who now believe that simply being friends with white students will somehow enhance your test scores, that there is some kind of complex psychological change which occurs in minority students as a result of desegregation. I think my colleague Norman Miller's work on this has probably put the last nail in that casket of a basically bad idea.

I am now persuaded that there is a simple explanation. When a classroom contains a mixture of advantaged and disadvantaged students, the teacher paces the class at a rate appropriate for the advantaged students and the disadvantaged students are pulled along at a faster rate.

The Coleman report showed that in desegregated schools, minority achievement went up not because they were in class with white students, but because they were in class with students of higher income.

Frank Rapley, who is now the deputy superintendent in the Jefferson County System, so that the worst problem he has in his district now are the naturally integrated schools, the cases where there are adjoining old black and white schools which have now been merged into a single school, and which are mainly in the older low-income areas, where both blacks and whites are poor.

These schools have relatively low achievement. The schools desegregated by busing tend to have affluent suburban white students and both white and black scores are considerably higher there.

I have received a grant from the National Institute of Education to study this literature to see what advice one might gain on how to design a desegregation plan, and after doing the analysis I have talked about thus far, I was then able to ask what are the differences between the kinds of plans in school systems where the effects were large rather than small, and I found two conclusions.

First, the plans that involve entire counties or entire metropolitan areas, Florida is a good example, because every school system in Florida is a countywide system, are most effective in raising black achievement.

Plans which desegregate students within the central city are not quite as effective, presumably because most of the middle-income and high-income whites that you need are in the suburbs, and plans which desegregate only suburban areas are also less effective probably because the black students in the suburban schools are already doing fairly well, but I don't know.

Second, I found for maximum benefits for black achievements the schools should be predominantly but not overwhelmingly white.

Too many disadvantaged students apparently makes it hard for teachers to set a fast pace for the class, but too few blacks apparently leaves them psychologically too uncomfortable to be able to learn well.

Both of these findings seem to accord with educators' wisdom. There are many school administrators who see metropolitan plans as the most effective way to desegregate, and in Wilmington, Louisville, Richmond, and Detroit, it was the central city school system which sued for a merger with the suburbs.

The courts have generally not been very interested in desegregation remedies which develop the desegregation of every school in predominantly black central cities. There seems to be the general feeling among courts that schools should be predominantly white, and I have heard a large number of judges and school superintendents say that they didn't like plans which brought together low-income whites and low-income blacks, so I think the findings that have come out of my research are quite consistent with the general opinions of the professional educators.

On that last point, there is a quotation from the New York Times a black mother in Chicago whose school was about to be paired with the adjoining school, in a low-income area, said:

I don't mind my children going to school with whites, but they just hooked up two poor schools here. That is not going to do anyone any good.

She is saying the same thing that Rapley was saying in Jefferson County.

In summary, it seems clear from this research that desgregation ordinarily enhances the achievement of minorities without harming white students, and that some types of plans are especially effective educationally. I would caution that as a consultant to school districts, I consider test scores only one of several factors to be considered in selecting the best plan.

For example, school desegregation plans are often proposed by communities which are not under court order, to preserve changing neighborhoods and to assist in the revitalization of the city.

And of course, any good plan will try to minimize white flight. Nearly all court-ordered plans are in fact drawn by the defendant school districts, and they will take considerations such as these into effect as well as achievement, as I think they should, so I don't think test scores are the only story that you should be thinking about.

Thank you.

[The statement of Mr. Crain follows:]

TESTIMONY OF ROBERT L. CRAIN, THE RAND CORP., AND THE CENTER FOR SOCIAL ORGANIZATION OF SCHOOLS, THE JOHNS HOPKINS UNIVERSITY

I was invited to come here today because I have done a great deal of research of the question of the impact on school desegregation on achievement. I was originally asked to analyze this question by Willis Hawley and Betsy Levin, co-chairpersons of the National Review Panel on School Desegregation Research. I looked at the research on white achievement in desegregated schools, and I found that a number of reviews of that work had been done, and every reviewer had concluded that white scores were not affected by desegregation. I don't think I know a single social scientist who believes that white scores are either enhanced or harmed by desegregation. So I decided that that question was settled, and concentrated instead on black achievement.

I located 93 studies, each done in a single community undergoing desegregation. Slightly over half of these studies conclude that black test scores are enhanced by desegregation; most of the test scores are unaffected, and occasionally a study argues that black test scores are harmed by desegregation. I spent over a year reading all of these studies, and found that the reason why some studies showed desegregation effects and others didn't was because of the way the research was done.

First I found that desegregation is not particularly beneficial in the first couple of years, because black students who start out in segregated schools and then suddenly switch over to desegregated schools apparently do not benefit academically. It is only after the first few years, when the students who started desegregation at 1st grade start coming through the system, that you start seeing gains. For example, here are the scores from the desegregated Jefferson Co., Ky., system (that is the city of Louisville and its suburbs). The chart shows scores immediately after desegregation, and show white scores at each grade from 1 to 12 considerably higher than black scores in each grade. The chart also shows superimposed on these scores the test scores two years later, in red. The white scores are about the same—up slightly. The black scores in the sixth grade and higher also haven't changed much—those are students who started in segregated schools and had to switch over in 4th grade or later. But students in the third grade, who had attended desegregated schools since 1st grade, have scores quite a bit higher than the third graders of 5 years earlier. Scores are still not as high as white scores—that is apparently too much to expect—but they are definitely higher. One way to say how much higher is with the following example. Suppose I were running a rather select technical university, and said that I would only admit students whose scores were in the top third of the nation's students. If 600 black students from Louisville had applied with the scores of these 3rd graders had in 1976, I would have taken 100 of them. If their scores were like the 3rd graders in 1978, I would have taken 150 of them, a 50 percent increase. This is a very big gain, and if this were the only study I had I would not trust it—after all, it is only one school system. But I found studies in 18 other cities where research had been done on black students desegregated in 1st grade. I also made one other rule in selecting these cities; the studies had to compare desegregated blacks to a group of blacks in segregated schools. That may seem obvious, but studies in most cities cannot do that, because all black students have been desegregated. The 18 cities where I found good studies range across the United States: In the South, Nashville, Tenn., Beaufort Co., S.C., Gulfport, Miss., DeKalb Co., Ga.; in the Northeast, Hartford and New Haven, Conn., New Rochelle and Rochester, N.Y., and Newark, N.J., and the Midwest, Evanston and Peoria, Ill., Ann Arbor and Grand Rapids, Mich., and Minneapolis; and in the West, Pasadena and Berkeley in California and Las Vegas, Nevada. Twenty-three researchers had studied 45 groups of students, and 40 out of 45 times scores had increased as a result of desegregation. The average gain seems to be about the same as was found in Louisville.

Most of these studies were done by statisticians in the school system research departments. Six of these samples of students were studied by the best possible research design—a randomized experiment in which a lottery was used to select two groups of black students. Both groups were tested, and then the students in one group were desegregated while the others were left in segregated schools. All six of these studies find that the desegregated students' achievement went up faster than did the segregated group, and the average gain is greater than the gains shown in the chart for Jefferson County. I am now quite convinced that desegregation raises the test scores of black students without harming the test scores of whites. I also found 13 studies which looked at IQ scores, instead of achievement test scores, and they show quite consistently that desegregation raises black IQ scores as well as school achievement.

The studies I have reviewed all deal with single communities. The National Assessment of Education Progress has been studying the educational performance of American young people across the nation for some time now. They have found that test scores of black students have been rising markedly during the past several years, especially in the Southeast.

They do not normally attempt to interpret the changes they find, but when they first observed the growth of achievement for young black students in the Southeast, they commented that this was very likely due to school desegregation. Thus, the national picture seems to agree with what has been found at the local level.

Although there is not as much research data on Hispanic students in desegregation schools, the evidence there seems to indicate beneficial effects. The Coleman Report showed higher test scores for Mexican-Americans and Puerto Rican students in predominantly Anglo-American schools. More recently Mahard analyzed data from the large National Longitudinal Study of the High School Class of 1972, and found that Puerto Rican, Mexican-Americans living in the north and west, and other Latins all had higher scores if they were in predominantly Anglo schools.

The question remains, "Why are minority test scores enhanced by desegregation?" Few social scientists now believe that simply being friends with white students enhances achievement test scores, or that some sort of complex psychological change occurs in minority students after they are desegregated. My colleague, Dr. Norman Miller's work has been most influential in debunking this idea. Instead, I am now persuaded that there is a much simpler explanation: When a classroom contains a mixture of advantaged and disadvantaged students, the teacher paces the class at a rate appropriate for the advantaged students, and the disadvantaged students are pulled along at a faster pace. The Coleman Report showed that in desegregated schools minority students' achievement goes up not because their classmates are white, but because they are more affluent. Frank Rapley, Deputy Superintendent of Schools in Jefferson County, Ky., commented to me recently that the problem schools in his district are the schools where students are not bused, the so-called naturally integrated schools; these tend to be in the older low-income areas of Louisville, where both blacks and whites are poor and achievement for both groups is low. In contrast, the schools where there is more busing have affluent suburban white students, and both black and white achievement is higner there.

I have received a grant from the National Institute of Education to study the desegregation-achievement literature to see what advice one might gain from it about how to draw desegrergation plans. Once we understood the biasing effects of different kinds of research methods, we could isolate differences which were due to the difference types of desegregation plans. We found two important factors.

First, we found that plans covering entire metropolitan areas, or entire counties, as in Florida, were most effective in raising black achievement. Plans which desegregated within the central city were not as effective, presumably because most of the middle- and high-income whites have moved to the suburbs, and plans which desegregate only suburban areas are also not as effective in raising achievement, perhaps because the achievement of blacks in suburban segregated schools is not so low to begin with.

Second, we found that for maximum benefits for black achievement, the schools should be predominantly, but not overwhelmingly, middle-income white. Too many disadvantaged students apparently makes it hard for teachers to set a fast pace for the class; and too few blacks leaves them psychologically too uncomfortable to learn well.

I think both of these findings accord with educators' wisdom. There are many school administrators who see metropolitan plans as the most effective way to desegregate many cities; in Wilmington, Louisville, Richmond, and Detroit the central city school board sued for a merger with their suburbs.

The courts have nearly always declined to require desegregation remedies which included the desegregation of every school in predominantly black central cities. There also seems to be widespread dissapproval of plans which bring together low-income blacks with low-income whites.

A black mother was quoted in last month's *New York Times*, commenting on a proposed change in the boundary line separating two adjoining segregated schools in Chicago:

"I don't mind my children going to school with whites but they have hooked up two poor schools here. That's not going to do anyone any good."

She seems to be in agreement with Deputy Superintendent Rapley of Jefferson County that desegregation of adjoining inner-city schools is the least effective from of desegregation.

In summary, it seems clear from the research that desegregation ordinarily enhances the achievement of minorities without harming white students, and that some types of plans are especially effective educationally. I would caution that as a consultant to school districts, I consider test scores only one of several factors to be considered in selecting the best plan. For example, school desegregation plans are often proposed by communities which are not under court order, in order to preserve changing neighborhoods and to assist in the revitalization of the city. And of course, a good plan should also minimize white flight. Nearly all court-ordered plans are in fact drawn by defenda nt school districts, and take these other considerations into account, as I think they should. Thank you.

Mr. EDWARDS. Thank you very much, Dr. Crain.

Dr. Norman Miller will speak next. Dr. Miller is professor of social psychology at the University of Southern California, whose football team just beat my team Saturday, barely.

Dr. MILLER. Maybe we can put that aside for the minute.

Mr. EDWARDS. No great surprise.

TESTIMONY OF DR. NORMAN MILLER, UNIVERSITY OF SOUTHERN CALIFORNIA, SOCIAL SCIENCE RESEARCH INSTITUTE

Dr. MILLER. First, let me present some background. At the time of the *Brown* decision, as indicated by the social scientist's statement that was appended to the documents submitted by the plaintiffs, social scientists thought that poor self-concepts among black minority children was the most important problem to be remedied by school desegregation.

Impaired academic learning and hostility toward whites were seen as effects that resulted from low self-esteem. In terms of relative importance, improved academic mastery seemed to rank third in importance, falling behind the goals of raising minority self-esteem and improving intergroup relations.

The expectation of academic improvement among minority children primarily seemed to rest upon an argument based on analogy. Although others have questions his conclusion [Lee, 1951; Scott, 1981; Wolff, 1979], Otto Klineberg had presumably found that the IQ's of blacks who migrated to Northern cities exceeded the IQ's of those who remained in the segregated South.

He also argued that this was not due to "selective migration;" those who left the South to move north were on the average not smarter than those who remained behind. It was the experience of living in the integrated north that supposedly produced the change.

He argued that the longer they resided in the north, the greater their improvement. By analogy then, if black children were to attend integrated as opposed to segregated schools, they, too, would reap some intellectual benefit.

At that time of this social scientist statement appended to *Brown*, the process that introduced this change was not described nor was it well-developed.

Current evidence: Since 1975, there have been a number of reviews of existing research on the relation between school desegregation and the academic performance of black and white children.

When the conclusions of individual studies are taken at their face value, the majority do report academic benefit for minority children. Virtually all the studies, however, are very weak in their research design, and very few, if any, are published in journals that require rigorous peer review.

Indeed, most are unpublished. This has led some reviewers to try to categorize studies in terms of the relative strength or weakness of their research design and to try to exclude very weak ones from consideration. Perhaps because the individual studies are often flawed in at least several respects, reviewers often differ in their assessment of which studies possess the stronger research designs.

In major reviews of existing research, both St. John, 1975, and Bradley and Bradley, 1977, conclude little benefit; Stephan, 1978, finds benefit in about 25 percent of the studies he reviews.

Clement, Eisenhard, and Ward, in a review prepared for the National Institute of Education, conclude with respect to academic achievement, that "race-mixing alone has little consistent effect on black-white outcomes," 1976, page 47.

Scott, 1981, finds questionable aspects in literally every study that reports a positive effect. Crain and Mahard, 1978, and Weinberg, 1975, my colleagues to the right, who review larger sets of studies than do St. John, Bradley and Bradley, or Stephan, are the most positive in their assessment, interpreting slighly more than half of the studies as showing benefit for blacks.

A major weakness that exists in virtually every study of school desegregation that contains a control group is nonequivalence of the desegregated group and the segregated comparison groups, the control group. The only way to assure equivalence, or to make it possible to statistically correct for nonequivalence, is to randomly assign students to the two comparison groups; that is, the researcher must use a lottery procedure or flip an honest coin, to determine which students among those in the district are to be sent to desegregated schools and which ones are to remain in segregated schools.

Obviously, for any social reform or remediation program it is very difficult to get the potential participants—or their parents—to agree to such a procedure.

Everyone wants to be in the group that receives the "beneficial" treatment. In studies of the effect of schooling, aspects of family background are typically the most powerful predictors of childrens' academic performance.

This remains true when one makes comparisons among the children within any racial-ethnic group, as well as the cross-groups. Whenever the comparison groups are not composed by random assignment, by some lottery procedure, it is likely that the direction of bias is that those minority children in the desegregated group are more likely to come from families with more middle-class backgrounds, and/or with greater interest in education; and/or in other ways to be more likely to obtain higher grades or test scores.

In other words, the likely effect of the nonequivalence of the comparison groups is to make desegregation appear more beneficial than it is.

Sometimes researchers will detect—or anticipate—this nonequivalence, and attempt to correct for it by selecting subgroups from the desegregated and segregated groups in a manner that matches them with respect to some relevant aspect[s] of family background and them compare the subgroups.

Virtually all methodological experts agree, however, that such matching procedures do not solve the problem; nor do statistical correction procedures, such as analysis or covariance, that are applied to the matched groups. The direction of the bias, even after matching, will still remain in the so-called matched groups.

A second problem is that reviewers differ in how they define benefit. Whereas some interpret any gain by minority students as benefit, even if white students exhibited larger gains; others, for example, Gerard and Miller, 1975, take a more conservative stand and argue that it makes more sense to define benefit in terms of black gains relative to those of whites.

Those in the last group note that the courts have viewed desegregation as a means of increasing the likelihood that minority members can develop marketable skills and get ahead economically. If desegregated blacks make educational gains but desegregated whites make even larger gains, then the competitive position of blacks has worsened rather than improved.

Summery of reviewers' conclusions: At any rate, the conclusions of the 8 or 10 reviewers of the literature on the effect of desegregation upon academic achievement run from "moderately positive" to "little or no discernible effect."

It comes as no particular surprise when a reviewer's conclusions matches his or her own ideological stand or the position he or she has taken in courtroom testimony.

Wilson's laws, developed in specific response to the outcomes reported in the individual studies that examine the effect of schools desegregated upon academic achievement probably apply to reviewers conclusions as well.

One. "All policy interventions in social problems produce the intended effect if the research is carried out by those implementing the policy or their friends."

Two. "No policy intervention in social problems produces the intended effect if the research is carried out by independent third parties, especially those skeptical of the policy."

However, at least two of the reviewers who conclude little or no benefit, Stephan and St. John, I know to be ideologically sympathetic to the goals and aims of desegregation.

Thus, it hardly makes sense to accuse them of bias in their assessment. On the other hand, although the possibility of harmful effects, as distinct from no effect, has not been frequently raised, none of the reviewers conclude that desegregation is harmful.

This is not to deny that some instances of harm have been reported, such as, for instance, Kurtz' analysis of Pasadena and Inglewood, Calif., such as some interpretations of the Coleman Report.

Finally, whenever studies with a stronger research design have been compared to those with a weaker design the magnitude or consistency of benefit diminishes.

Why are results inconsistent? The next point that needs to be made is that although the term "school desegregation" may have a clear meaning as a policy decision, it lacks clarity as a scientific concept.

In each instance in which a school desegregation program was implemented, it undoubtedly differed from other instances in numerous ways: For example, whether the desegregation was voluntary or ordered, the average percentage of minority students in each class and the variation of percentages across classes, the extent to which minority and Anglo students socially accepted one another, whether ability tracking was maintained or discontinued, whether or not new curriculum materials were developed and interjected into the desegregated classroom, the degree of community conflict, the prevailing attitudes of administrators and teachers, et cetera.

All of these things differ from one study to the next.

Apart from somewhat naive optimism, there may have been little reason to have expected desegregation to produce academic benefit irrespective of the circumstances under which it is implemented.

Today many, if not most, of the researchers in this field believe that desegregation is only the first step. In other words, desegregation per se will not produce benefit. It provides a circumstance in which positive effects can occur, but ordinarily they will not occur by themselves.

Instead, specific learning programs must be interjected into the desegregated classroom setting, such as cooperative group learning, peer tutoring, or other plans.

In our own research in the Riverside, Calif., School District, although desegregation produced no overall closing of the scholastic achievement gap between blacks and whites, these general findings reflected two opposing trends that canceled each other out: Benefit for minority students in the classes of unprejudiced teachers and detrimental effects for those in the classes of prejudiced teachers.

Should school desegregation be abandoned? The astute policymaker might at this point ask me: Why bother to spend money to desegregate schools? If there are programs that will improve the scholastic performance of minority children, why not apply them directly to minority children in segregated schools?

This is not a totally bad idea. However, such an approach ignores the fact that there is another very important reason for school desegregation; namely, that of increasing interracial acceptance and reducing prejudice.

Indeed, many would argue that this is the more important goal. Although the evidence with respect to interracial acceptance is even clearer than that on academic achievement in showing that desegregation per se will not automatically be beneficial, social science does seem to have developed some effective educational technologies or procedures for increasing tolerance and acceptance, and appears to be on the verge of developing additional ones.

Programs designed for this purpose, however, do require the presence of children from more than one racial-ethnic group. Thus, whereas, maintaining racial-ethnic separation inevitably acts to maintain outgroup devaluation and rejection of them, school desegregation provides a circumstance in which cross-racial tolerance and acceptance can be increased.

In any cost-benefit analysis of school desegregation there are a number of other intangibles that must be considered despite the difficulty in properly weighting their importance.

On the negative side is the disruption of school procedures, difficulty of the developing new curriculum materials better suited to the increased heterogeneity in classroom performance that seems to typically come with classroom desegregation, the increase in problems of discipline and intergroup friction, and the possibility of decreased parental involvement in schools as their children attend schools at more distant sites.

On the other hand, when asked to face a new problem in their work setting, people often seem to respond to it with renewed energy. Often, bureaucratic systems stagnate and fail to develop new programs unless prodded by external forces.

Experience and familiarity are recognized as important sources of a person's competence and effective functioning. The economic marketplace is dominated by whites. Black children who grow up in isolated ghetto schools, cannot gain the same familiarity and experience of dealing with a white world as do those who attend desegregated schools

Finally, abandoning attempts to enable minority children, and poor children in general, to break out of the poverty-incompetence-welfare cycle seems likely to further demoralize such groups and thereby increase their eventual social cost to our larger society.

The policy implications of the preceding comments and data argue on the one hand, that school desegregation per se is unlikely to promote substantial benefit, but on the other hand, when coupled with the new programs that are interjected into schools, they can produce benefits. Programs that are likely to improve race relations require the presence of different racial-ethnic groups.

This argues that intelligent school desegregation programs will not require school districts to use all available funds to transport students and maximize the redistribution of students.

Substantial funds must be reserved for doing something constructive with those who are transported. Desegregation is not the goal. It does provide a means of creating a setting in which educators can move toward the goal of improving interracial tolerance.

Mr. **Edwards**. Thank you very much, Mr. Miller.
[The prepared statement of Mr. Miller follows:]

Prepared Statement of Norman Miller, University of Southern California, Social Science Research Institute

BACKGROUND

At the time of the *Brown* decision, as indicated by the Social Scientists' statement that was appended to the documents submitted by the Plaintiffs, social scientists thougth that poor self concepts among black minority children was the most important problem to be remedied by school desegregation. Impaired academic learning and hostility toward whites were seen as effects that resulted from low self esteem. In terms of relative importance, improved academic mastery seemed to rank third in importance, falling behind the goals of raising minority self esteem and improving intergroup relations.[1]

The expectation of academic improvement among minority children primarily seemed to rest upon an argument based on analogy. Although others have questioned his conclusions (Lee, 1951; Scott, 1981; Wolff, 1979), Otto Klineberg had presumably found that the I.Q.'s of blacks who migrated to Northern Cities exceeded the I.Q's of those who remained in the segregated South. He also argued that this was not due to "selective migration"; those who left the South to move North were on the average not smarter than those who remained behind. It was the experience of living in the integrated North that supposedly produced the change. The longer they resided in the North, the greater their improvement. By analogy then, if black children were to attend integrated as opposed to segregated schools, they too would reap intellectual benefit. At that time a psychological process that might produce this change was not described or developed.

CURRENT EVIDENCE

Since 1975, there have been a number of reviews of existing research on the relation between school desegregation and the academic performance of black and white children. When the conclusions of individual studies are taken at their face value, the majority do report academic benefit for minority children. Virtually all the studies, however, are weak in their research design, and very few, if any, are published in journals that require rigorous peer review. Indeed, most are unpublished. This has led some reviewers to try to categorize studies in terms of the relative strength or weakness of their research design and to exclude very weak ones from consideration. Perhaps because the individual studies are often flawed in several respects, reviewers often differ in their assessment of which studies possess the stronger research designs.

In major reviews of existing research, both St. John (1975) and Bradley and Bradley (1977) conclude little benefit; Stephan (1978) finds benefit in about 25 percent of the studies he reviews. Clement, Eisenhard, and Ward, in a review prepared for the National Institute of Education, conclude with respect to academic achievement, that "race mixing alone has little consistent effect on black-white outcomes (1976, p. 47)." Scott (1981) finds questionable aspects in literally every study that reports a positive effect. Crain and Mahard (1978) and Weinberg (1975), who review larger sets of studies than do St. John, Bradley and Bradley, or Stephan, are the most positive in their assessment, interpreting more than half of the studies as showing benefit for blacks.

A major weakness that exists in virtually every study of school desegregation that contains a control group is non-equivalence of the desegregated group and the segregated comparison group (viz. the control group). The only way to assure equivalence (or to make it possible to statistically correct for non-equivalence) is to randomly assign students to the two comparison groups; that is, the researcher must use a table of random numbers (or flip an honest coin) to determine which students among those in the district are to be sent to desegregated schools and which ones are to remain in segregated schools. Obviously, for any social reform or remediation program it is very difficult to get the potential participants (or their parents) to agree to such a procedure. Everyone wants to be in the group that receives the "beneficial" treatment. In studies of the effect of schooling, aspects of family background are typically the most powerful predictors of childrens' academic performance. This remains true when one makes comparisons among the children within any racial-ethnic group. Whenever the comparison groups are not composed by random assignment, it seems likely that the direction of bias is that those minority children in the desegregated group are more likely to come from families with more middle class backgrounds, and/or with greater interest in education; and/or in other ways to be more likely to obtain higher grades or test scores. In other words, the likely effect of the non-equivalence of the comparison groups is to make desgregation appear more beneficial than it is. Sometimes researchers will detect (or anticipate) this non-equivalence, and attempt to corrrect for it by selecting subgroups from the desegregated and segregated groups in a manner that matches them with respect to some relevant aspect(s) of family background and then compare the subgroups. Virtually all methodological experts agree, however, that such matching procedures do not solve the problem; nor do statistical correction procedures (such as analysis of covariance) that are applied to the matched groups. The direction of bias will still remain in the so-called matched groups.

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[1] Subsequent research suggests that self esteem of black children is not lower than that of whites.

A second problem is that reviewers differ in how they define benefit. Whereas some interpret any gain by minority students as benefit, even if white students exhibits larger gains; others (e.g., Gerard and Miller, 1975) take a more conservative stand and argue that it makes more sense to define benefit in terms of black gains relative to those of whites. They note that the courts have viewed desegregation as a means of increasing the likelihood that minority members can develop marketable skills and get ahead economically. If desegregated blacks make educational gains but desegregated whites make even larger gains, then the competitive position of blacks has worsened rather than improved.

SUMMARY OF REVIEWERS' CONCLUSIONS

At any rate, the conclusions of the eight or ten reviewers of the literature on the effect of desegregation upon academic achievement run from "moderately positive" to "little or no discernible effect." It comes as no surprise when a reviewer's conclusions matches his or her own ideological stand or the position he or she has taken in courtroom testimony. Wilson's laws, developed in specific response to the outcomes reported in the individual studies that examine the effect of school desegregated upon academic achievement probably apply to reviewers conclusions as well: (1) "All policy interventions in social problems produce the intended effect if the research is carried out by those implementing the policy on their friends." (2) "No policy intervention in social problems produces the intended effect if the research is carried out by independent third parties, especially those skeptical of the policy (Wilson, 1973, p. 133)." However, at least two of the reviewers who conclude little or no benefit, Stephan and St. John, I know to be ideologically sympathetic to the goals and aims of desegregation. Thus, it hardly makes sense to accuse them of bias in their assessment. On the other hand, although the possibility of harmful effects, as distinct from no effect, has not been frequently raised, no reviewer concludes that desegregation is harmful. (This is not to deny that some instances of harm have been reported, such as, for instance, Kurtz' analysis of Pasadena and Inglewood, California.) Finally, whenever studies with a stronger research design have been compared to those with a weaker design the magnitude or consistency of benefit diminishes.

WHY ARE RESULTS INCONSISTENT?

The next point that needs to be made is that although the term "school desegregation" may have a clear meaning as a policy decision, it lacks clarity as a scientific concept. In each instance in which a school desegregation program was implemented, it undoubtedly differed from other instances in numerous ways: e.g., whether the desegregation was voluntary or court ordered; the average percentage of minority students in each class and the variation of percentages across classes; the extent to which minority and anglo students socially accepted one another; whether ability tracking was maintained or discontinued; whether or not new curriculum materials were developed for the desegregated classroom; the degree of community conflict; the prevailing attitudes of administrators and teachers; etc. Apart from somewhat naive optimism, there may have been little reason to have expected desegregation to produce academic benefit irrespective of the circumstances under which it is implemented. Today, many, if not most, of the researchers in this field believe that desegregation is only the first step. In other words, desegregation per se will not produce benefit. It provides a circumstance in which positive effects can occur, but ordinarily they will not occur by themselves. Instead, specific learning programs must be interjected into the desegregated classroom setting, such as cooperative group learning, peer tutoring, etc. In our own research in the Riverside, California

School District, although desegregation produced no overall closing of the scholastic achievement gap between blacks and whites, these general findings reflected two opposing effects that cancelled each other out: benefit for minority student in the classes of unprejudiced teachers and detrimental effects for those in the classes of prejudiced teachers.

SHOULD SCHOOL DESEGREGATION BE ABANDONED?

The astute policymaker might at this point ask: Why bother to spend money to desegregate schools? If there are programs that will improve the scholastic performance of minority children, why not apply them directly to minority children in segregated schools. This is not a totally bad idea. However, such an approach ignores the fact that there is another very important reason for school desegregation, namely, that of increasing interracial acceptance and reducing prejudice. Indeed, many would argue that this is the more important goal. Although the evidence with respect to interracial acceptance is even clearer than that on academic achievement in showing that desegregation per se will not automatically be beneficial, social science does seem to have developed some effective educational technologies or procedures for increasing tolerance and acceptance, and appears to be on the verge of developing additional ones. Programs designed for this purpose, however, do require the presence of children from more than one racial-ethnic group. Thus, whereas, maintaining racial-ethnic separation inevitably acts to maintain outgroup devaluation and rejection, school desegregation provides a circumstance in which cross-racial tolerance and acceptance can be increased.

In any cost benefit analysis of school desegregation there are a number of other intangibles that must be considered despite the difficulty in properly weighting their importance. On the negative side is the disruption of school procedures, difficulty of the developing new curriculum materials better suited to the increased heterogeneity in classroom performance levels that comes with desegregation, the increase in problems of discipline and intergroup friction, and the possibility of decreased parental involvement in schools as their children attend schools at more distant sites. On the other hand, when asked to face a new problem in their work setting people often seem to respond to it with renewed energy. Often, bureaucratic systems stagnate and fail to develop new programs unless prodded by external forces. Experience and familiarity are recognized as important sources of competence and effective functioning. The economic marketplace is dominated by whites. Black children who grow up in isolated ghetto schools cannot gain the same familiarity and experience of dealing with a white world as do those who attend desegregated schools. Finally, abandoning attempts to enable minority children (and poor children in general) to break out of the poverty-incompetence-welfare cycle seems likely to further demoralize such groups and thereby increase their social cost to our larger society.

POLICY IMPLICATION

The policy implications of the preceding comments and data argue on the one hand, that school desegregation per se is unlikely to promote substantial benefit, but on the other, when coupled with the new programs that are interjected into schools they can produce benefits. Programs that are likely to improve race relations require the presence of different racial-ethnic groups.

This argues that intelligent school desegregation programs will not require school districts to use all available funds to transport students and maximize the redistribution of students. Substantial funds should be reserved for doing something constructive with those who are transported. Desegregation is not the goal. It does provide a means of creating a setting in which educators can move toward the goal of improving interracial tolerance.

Mr. **Edwards**. Dr. Meyer Weinberg is director of the Horace Mann Bond Center for Equal Education at the University of Massachusetts in Amherst. Dr. Weinberg, we are pleased to have you here and you may proceed.

Dr. **Weinberg**. Thank you for the opportunity to explore various aspects of research on desegregation. I would like to discuss, in summary fashion, three subjects: One, social science and desegregation; two, white children and desegregation; and three, education in all-black schools.

Often, social science evidence is said to be soft while that of physical science is described as hard. This distinction is a myth. Purveyors of the myth usually point to contradictions between social scientists in testimony as evidence of a certain lack of substance. If social science evidence were solid, it is declared, social scientists would agree more wholeheartedly on it.

The fact is that most of the "softness" of social science evidence arises from the happenstance that it is usually used in a clash over policies. The present proceeding is a good example. Social science witnesses are being asked whether proposed policies are securely anchored in fact. And they disagree. In fact, they disagree less today.

In congressional hearings, it is quite customary to hear opposing viewpoints from qualified physical scientists. In patent litigation, both sides frequently come well fortified with physicists, chemists, geologists or what have you.

When confronted with conflicts among these specialists, we do not denounce their evidence as soft. Instead, we acknowledge the complexity of the situations under dispute. The same should be done with situations in which social scientists testify.

We need to ask: Is social science evidence hard or soft with respect to what? The effect of desegregation on academic achievement is among the most extensively researched questions in American social science. If one wishes to pick and choose selected evidence to build a case, this is possible to do.

Since research on academic achievement has conflicting findings—as does nearly every other significant research problem known to me—it is not difficult to manipulate one's evidence to produce whatever conclusion one wishes. This is not science; nor is it honest. It should be exposed whenever encountered.

Differences between social scientists that arise out of ignorance of previous research are inexcusable. We can say the same of shoddy work by some social scientists who read a three-paragraph abstract of a research work that runs upwards of 300 pages, and then claim to have reviewed the study.

Now need we respect the righteously pronounced claim of one or another researcher to having discovered the "only true way" to study a topic. Desegregation is complex enough to call upon the research perspectives of many fields, including law, history and economics as well as the more customary social sciences.

Some disagreements among social scientists can be highly productive, especially if they lead to the uncovering of hitherto-ignored factors on the rejection of conventional beliefs which are shown to be without foundation. Disagreements about facts are constructive if they are followed by heightened efforts to establish the facts.

It is astonishing to note how little attention is paid by researchers and writers to actual cases of desegregation. The question is debated as though desegregation were a purely theoretical construct.

In fact, however, it is being applied in thousands of American schools. In 1981, no adequate overview of the workability of desegregation can be made without extensive reference to practices in specific cities.

A judgment of the success or failure of parent participation cannot be made without examination of Charlotte and Boston, for example. The role of academic innovation under desegregation should include the experience of Minneapolis and Milwaukee.

How to construct a well-organized student busing plan is illustrated by the success of Tampa; a horrible example is San Francisco. The limits of voluntary desegretation can be studied by reference to San Bernardino and Dallas.

A good rule would seem to be: If concrete practices in specific cities are not mentioned in an analysis of desegregation, chances are it does not merit much attention. Such a study may be more significant for debate classes than for serious policymaking.

A final point on conflicting opinions: People who have extensive practical experience as well as researchers who have conducted studies are entitled to express opinions on disputed or unresolved practical problems. I would argue that it is their obligation to do so.

White children and desegregation. In 1964, while writing an early summary of research on desegregation, I noticed something unexpected: White children did no worse, academically, in a desegregated than in a white-segregated school.

Widespread impressions to the contrary at that time were based on an expectation that the presence of minority children somehow diluted the academic quality of learning in a school.

Three years later, a more thorough review of research showed once again that white achievement was unaffected by desegregation. Both in 1970 and 1977, and now again in 1981, later reviews of research by me have not disturbed that finding. It can be found in virtually every review of research, regardless of the author. Indeed, this finding has become the single most widely accepted finding in the field.

Consider, however, what the finding implies: If attendance of whites in a desegregated school does not impose an achievement penalty on them, this means that neither does white attendance in an all-white school confer a learning advantage on them.

If this is so, then much of the opposition to desegregation loses its presumed educational justification. All other things being equal, therefore, desegregation will not harm white students educationally. It may, in fact, help deepen and broaden that education. To see this possibility we have to examine aims of education other than academic achievement.

Perhaps the most destructive personal harm of segregation is this: It may teach black children to view themselves as inferior by virtue of their race and white children to view themselves as superior because of their race.

Either outcome will be recognized by parents as grave distortions of a child's character. Thus, white children can be greatly harmed by segregation. Under the wise tutelage of an understanding teacher, in a desegregated classroom both white and black children can attain a more truthful conception of themselves.

The failure to insure the presence of such teachers can, as it did at one time in Riverside's desegregation, play a part in the alienation of minority from white children as well as from the teachers.

Somewhat less than a million white children now attend schools in which they are a minority. Two studies of such children reveal that they adjust well to their minority status.

Contrary to expectation of some, for example, the white children do not lapse into a variety of black English although their knowledge of such English is expanded. In other words, desegregation enriches their experience rather than depriving them of their own cultural features.

Education in all-black schools. It may seem strange to discuss this subject in a session dealing with desegregation, but in the minds of a few people education in all-black schools is seen as an alternative to desegregation, so I believe I would like to examine that question.

The question has been raised whether schools that are all-black can be good schools. It should be recalled that during much of the history of public schools, those for black children were planned by governmental authorities to be inferior.

Sometimes 20 times more was spent on white children than on black children. More customarily, the ratio was 10 to 1. Teachers were less trained, buildings were barely sufficient, the school year was shorter, and supplies and instructional materials were virtually unobtainable. The curriculum was deliberately kept narrow and impoverished.

Horace Mann Bond, the outstanding scholar of this matter, wrote that black public schools in the South, from 1865 until the 1940's, "were of a disgracefully inadequate and ineffective kind." The judgment of W. E. B. DuBois was no different.

Yet, under some circumstances, black professionals and scholars did emerge in small number. Bond found four common denominators among the families who produced most of the country's black scholars.

These were: One, at least three generations of literacy, and by the way, mostly going back into slavery; two, enough income to pay for private schooling; three, access to excellent schools; and four, extraordinary motivation.

It was small, private schools attended primarily by children of better-off families that provided the best instruction for blacks in the South. A few public high schools afforded students a high-grade education. Bond pointed to the Lincoln School in Marion, Ala., as "the best predominantly Negro secondary school this country has known."

Dunbar High School, in the District of Columbia, was another example of a nonneighborhood school enrolling, for most of its career before the 1940's and 1950's, a fairly select clientele. The historical Dunbar became an incongruity in a largely black school system.

As the inadequacy of schooling for many thousands of District children stirred sentiments and organizational forms of protest, the fact that some few black students were educated satisfactorily was of diminishing importance. The greater challenge by far is to develop that kind of educational structure for the thousands.

More recently, Ronald Edmonds has sought to locate effective schools, that is, schools in which poor children achieve at the same minimal level expected of children of middle-class families. Are there any such schools? After some 6 years of investigating, the Edmonds group has yet to provide an overall report of its efforts.

A few schools here and there are mentioned once in preliminary reports but there has been no sustained treatment. Mary Hoover has compiled a list of 15 effective black schools. Some, however, are private. These and some of the public ones are selective, based on entrance tests and thus are not typical.

At least one is an upper-middle-class public school. Others have pointed to schools in poor black areas which from time to time record relatively high academic achievement scores. Some time later, it frequently happens, the same schools slide down without public notice.

It turns out that the momentary record of high achievement hinged on the presence of an extraordinary principal. No structural changes occurred and when the rare individual departed, so did the main organizing force for progress.

This short review strongly suggests that the educational failure of black public schools has resulted from governmental design rather than from the absence of white children in the classrooms. Just as clearly, it demonstrates once more that escape from these ineffective schools is, as in the case of whites, a prerogative of middle-class status.

Either the political power represented by middle-class parents sufficed to guarantee an effective education in a few existing public schools or there was resort to private schooling.

The great mass of minority children cannot be lost in the name of a few who succeed nor can they be expected to buy their way into educational effectiveness. There is nothing objectionable to predominantly black schools in which all the children are learning. But schools are not kept black in order to increase their quality. Rather, it is in order to shortchange them that they are kept separate.

Would there be black schools in a society without racism? Probably, just as there would be integrated schools as well. When race ceases to be a signal for deprivation, the racial composition of schools loses its significance. Until racism recedes drastically, it is wise to continue pressing for desegregation.

This statement is then followed with citations to various literature and this is in reference to the questions I have mentioned in the paper.

Thank you, Mr. Chairman.

[The information follows:]

CITATIONS TO RELEVANT RESEARCH LITERATURE

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References to my own work include: "Research on School Desegregation: Review and Prospect" (Chicago: Integrated Education Associates, 1965); "Desegregation Research: An Appraisal" (Bloomington, Indiana: Phi Delta Kappa, 1968; 2nd ed., 1970); "Minority Students: A Research Appraisal" (Washington, D.C.: Government Printing Office, 1977); and "Minority Students in School and College: Experience and Research" (to be published next year).

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The standard work on desegregation in Riverside, California is Harold B. Gerard and Norman Miller, "School Desegregation: A Long-Term Study" (New York: Plenum Press, 1975). An important critique is by Joan A. W. Linsenmeier and Paul

M. Wortman, "The Riverside School Study of Desegregation: A Re-Examination," Research Review of Equal Education, 2 (Spring 1978), pp. 1-40. A statement on the orientation toward minority students by Riverside teachers, made by the research director of the school district, can be found in Weinberg, "Minority Students: A Research Appraisal," pp. 233-234.

A striking personal example of such a realization of self-knowledge can be found in the work of Carl C. Jorgensen, "The Socialization and Meaning of Sense of Internal and External Control Among Black High School Students" (doctoral dissertation, University of Michigan, 1971).

The two studies of white children in the District of Columbia are Barbara Libarkin, "Interracial Living and the Racial Attitudes of White Children in Grades 3 to 6: The White Child as a Minority in a Black School System" (master's thesis, Catholic University of America, 1976) and Gretchen E. Schafft, "The Unexpected Minority: White Children in an Urban School and Neighborhood" (doctoral dissertation, Catholic University of America, 1976). Summaries of both studies, written respectively by Libarkin and Schafft, appear in two separate issues of Integrateduction: "Racial Attitudes of Whites in Public and Private Schools," 15 (November-December 1977) 126-130 and "White Children in a Majority Black School: Together Yet Separate," 14 (July-August 1976) 3-7.

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The work by Bond is "Black American Scholars" (Detroit: Balamp, 1972). The two recent studies of Dunbar are Jervis Anderson, "A Very Special Monument," New Yorker, March 18, 1978 and Thomas Sowell, "Black Excellence—the Case of Dunbar High School," Public Interest, Spring 1974. A sampling of work by Edmonds is "Some Schools Work and More Can," Social Policy, March-April 1979) and "A Division of the Literature and Issues Related to Effective Schooling," 1979, ERIC ED 170 394.

Mary Hoover's article is "Characteristics of Black Schools at Grade Level: A Description," Reading Teacher (April 1978).

Mr. **Edwards**. Thank you very much, Dr. Weinberg, and our thanks to all of the witnesses. Your approach and this scholarly analysis of the work that has been done is enlightening.

We have been studying this issue for a long time, and your testimony is really immensely helpful.

We all have our opinions on all of these subjects of course, as you all pointed out, but all of the members of the subcommittee are pleased, I am sure, that the statistics seem to indicate that when white students are in schools with minority students, it does not diminish the capacity of the white students to do good work. That is a very important point, and should be remembered when we are talking about white flight, which we already have had a great deal of testimony on.

Many cities where there is no busing still have the pattern of 5, 6, 7 percent per year white flight, which is very disturbing. Then we have witnesses who come in and say that all white flight is caused by desegregation of schools, and the busing that accompanies it.

I am sure that the studies and the analyses of these issues are made much more difficult by the day-to-day history of the public education and the private education systems in the United States. In California 15 years ago, even 10 years ago, we had free public education that practically led the country in achievement. Now our high schools are ranked in the middle, regardless of whether they are minority or majority, all-white schools, all-Hispanic schools, or integrated schools. The picture is entirely different.

The picture is dismal. We are in the middle of achievement testing and apparently rapidly going downhill. In terms of financial support, we are in the lower third of contributions, I believe, in yearly money that the public spends on high schools. This, too, is really very, very distressing.

In parts of California, and part of the area that I represent, we will have high schools and grammar schools where the students out of a possible 100 will average 4 to 7 percent in literacy, in mathematics, and yet 20 miles away, say in the city of Palo Alto, or Los Gatos, in all-white schools with affluent parents, the average in testing will be 98 out of 100; 99, 96, 95.

Now, is it your testimony, Dr. Weinberg, that these same students going over into the ghetto schools of the east side of San Jose to the barrio schools, that these white students, if they somehow ended up over there, they would still do as well as they are doing in the Palo Alto and the Saratoga schools?

Dr. Miller, what do you think?

Dr. **Miller**. I wouldn't argue that. I think that the data is more mixed than my colleagues to the right do with respect to the effects of desegregation programs on whites. I think that what we have said is that most reviewers have concluded that, to a large extent, that is what the massive studies seem to show, that there are not detrimental effects, but I think if you look in individual studies, if you look for cases where there has been white loss, that you can find them; the question to ask is, what are the characteristics of those instances, and can we make some sense out of them?

Dr. **Crain**. It is true that the research that has been done by a lot of different people in a lot of different situations generally does not find any pattern of a white decline in test scores in schools with more minority students.

That usually means blacks. I should caution that there hasn't been that much work done on predominantly black schools. Desegregation plans normally don't create black-predominate schools, so the kind of imagery that comes to my mind when I listen to you talk about reassigning students by helicopter from Palo Alto to Oakland, the imagery that comes to mind is taking a small number of students out of Palo Alto and putting them in Oakland.

What actually happens in a desegregation plan is more like Louisville, where Louisville Central High School was an all-black high school, and it now has the local reputation of being the best school in the city, but it is of course, three-quarters white now.

The school is 74 percent white. The fact that it was a black school before desegregation and no one has any complaints about performance there, it happens to have bused in some very affluent suburban kids, and it is a really outstanding school.

Mike probably has done more work than anyone else on the rather special situation when you have whites who are actually in the minority in predominantly black schools.

Dr. **Weinberg**. In the Coleman report in 1966, if you read one part of it too rapidly, it seems to say this: That white children who attended predominantly minority schools did worse in terms of academic achievement than white children in predominantly white schools. That statistical finding has been used in the past to argue against desegregation from the point of view of harm to white children, but as you examine those statistics a little more carefully, you find, first of all, that there is a class factor at work. The white families for the most part who remain in a neighborhood which has shifted, turned from all-white to primarily black, are the poorest parents.

They can't afford to move, and therefore you are talking not about white children in general.

You are talking about low-white families, and many of them in fact may have a lower socioeconomic position than the black children in that particular school. The fact that those white children, those few white children, who are attending a predominantly minority school are achieving at lower levels than one might expect of white children is a expression not of harm that desegregation has done to them, but rather their socioeconomic position.

There is one thing the public schools have done with both the black and white children alike, and that is penalized them for their social class.

Mr. **Edwards**. I think another thing that also could happen, Dr. Weinberg, happened to a certain extent at Ravenswood High School in San Mateo County, where a few white students were left in a largely black high school. They did not necessarily come from disadvantaged or lower income whites.

They came from dedicated white parents, who wanted their children to have that experience, who took an interest in the school, took an interest in their children's work, and the white students had extraordinary records. I haven't looked at it in a long time, but this was a number of years ago.

Dr. **Crain**. When I looked at high schools in the South, in 1972, I looked at 200 southern high schools, and found that as best I could adjust for income differences and so forth, the white students in predominantly black schools had the highest test scores, and I, of course, did not conclude from that that going to predominantly black schools was somehow a superior education.

I think probably what was happening was that the more bigoted white parents who were pulling out had kids who were not doing as well and there was left behind the same kind of kids you were talking about in Palo Alto.

Mr. **Edwards**. There seems to be a tendency in this country at the present time of going back to the philosophy of the virtue of separate but equal. I think that that statement can really not be challenged. And I suppose that an all-black school and it is almost impossible not to have a lot of them, given the patterns of housing in this country—is just going to have to have to spend an awful lot more time, devotion, and money on its students, because those schools are necessarily unequal when they start out because of all the things that you gentlemen mentioned—that we do have a society that is largely run by whites, a business community that is run by whites and so forth. In certain urban areas, we do have all-minority schools, some are going to be all-Hispanic schools, and I know this is not quite the subject of our hearing today, but what is the obligation of the local and State governments when it is not feasible to integrate?

Dr. **Crain**. Clearly there are predominant minorities in central cities, Los Angeles and two dozen others where based on what has happened the last 20 years there is no reason to expect that students there are going to be in desegregated schools.

It is embarrassing that it took us about 12 years and God knows how many million dollars to figure out that title I was a good idea but I think the researchers have finally worked out all the bugs in their research and have figured out that you can prove with a computer that title I is a good idea, and that was a reasonable policy, I think. The gut instincts of educators and Congress people were a lot better than the computers and social scientists in 1965, so it took us a while to catch up, but that is I think the only option that we have got is to try feeding additional moneys from the Federal level into those schools.

One of the problems especially referring to Bernie Gifford's talk last week about the substantial inequalities of the Los Angeles schools, but the major inequality in what is provided students is the fact that they have an unstable teaching staff of young teachers, and that is because every school system in the country assigns teachers on the basis of seniority, and a very large number of teachers opt out of teaching in minority schools, and no amount of money is going—well, perhaps a very large amount of money would make it possible to create a learning environment that people would like to stay in. Most teachers will opt out if for no other reason than they want to teach close to their homes. You are going to have schools in East Los Angeles in which you are going to have very high teacher turnover, and I do not think there is an easy solution to that one.

Dr. WEINBERG. Responding to your question directly, what can people in Government do? A new and emerging area of research is called the study of intradistrict inequalities. I am speaking now of the per student support that varies within the same school district from one school to another, not between school districts but within the same school district.

I would say in the last 2 or 3 years at the most there have been more scholarly analyses of this question than have been published in all our history, and it will I think expand. It tries to face up to a very specific question, namely are schools attended by poor and minority children being shortchanged by local school districts in the way that Federal, State, and local finances and funds are distributed from school to school?

In 1966 the Coleman report, reported that there were no significant differences as between schools that were attended by minority students and those by whites. But in the last 2 or 3 years enough evidence has accumulated to put that misconception aside. So what we are finding out more and more is that urban schools, especially, are typified by a very significant inequality in the amount of resources.

Now, *Brown* did not discuss that question. In fact the Supreme Court in *Brown* said we are not going to discuss that question, the question of resources and quality, and the NAACP lawyers agreed, because they were afraid that if it were discussed they would have gotten not a desegregation decision but a separate-but-truly-equal, whatever that means, decision.

So, in large cities, say Los Angeles or Chicago or New York, the differences between schools in the same district are fairly well documented. For those schools that are going to remain heavily minority under the present system, you cannot have a system and you do not have a system of equal apportionment of funds.

Now in the last couple of weeks there has been a very surprising entry into this field by the Department of Justice. I think Mr. Reynolds announced, the head of the Civil Rights Division, somewhat surprisingly, that the department is looking into these differences with a view toward restoring and protecting the constitutional rights of the children who are affected this way.

All I can say is that if this is so then this is the most unexpected development and nevertheless is very important. I do not see this as a substitute for desegregation, but as a supplement to it.

Mr. **Edwards**. Counsel?

Ms. **Cooper**. Dr. Crain, in your prepared statement I thought you were suggesting that improved achievement of minority students depended primarily if not exclusively on mixing of social classes and the consequential faster teaching pace rather than infusion of more resources, changed curriculum, or other factors. Is that your view?

Dr. **Crain**. Yes, I think so. Of course, one of the things that happens is that if you have got a school which is seen by the community as a middle-class school it will have a greater chance of getting the kind of educational reforms and new curricula and so forth.

Basically I think what desegregation can do is simply provide a collection of students which then will be seen by the community as a good school, and they will take care of the school. So, I think it is a matter of putting together the right set of classmates and other things will tend to follow in time.

Ms. **Cooper**. Do we have the research evidence that those things matter, that specific curriculum changes or teachers with higher degrees make a difference?

Dr. **Miller**. I think that there is some evidence that characteristics of teachers are very important. There is good evidence that the educational level and training of teachers is related in an outcome sense to students' performance. I think that is one of the few solid findings that we might all agree on.

Dr. **Crain**. We have also got a couple of pieces of clearly supported research showing that certain kinds of curriculum changes are important. So the research is limited, but there are some areas where we can show that certain kinds of schools are better.

Dr. **Miller**. But the general question that you raised is how complete or incomplete is our understanding of how benefit does arise in those circumstances in which it does, and the answer to that is that our understanding of that process is very incomplete. We do not have any clear-cut understanding of what goes on in those cases in which benefit has occurred that would satisfy all social scientists or most of them as to what is the real cause of that occurrence. We have managed to reject or cast doubt on some explanations, but we have not filled those gaps with new, satisfactory ones.

Dr. **Weinberg**. I would like to agree with Dr. Miller. Social scientists, even those who have done most of the work and studied desegregation achievement, have satisfied themselves with merely recording a difference between what it was in September and what it was in May, or finding a difference in scores between what it has been under desegregation with what it was under segregation. Hardly ever do they raise a question of why did a difference occur, that is, what are the dynamics in a classroom and school that lead to a change in achievement? I have spent many years reading research and I have come across very few examples of social scientists who even ask that question. It is not that we have been studying the question terribly hard and we have not come to it. But very, very few social scientists have even asked the question. I attribute that not to their obtuseness but the fact that they are not practitioners.

Teachers are just dying to know why did it happen? Can I replicate that? Can I do it myself in my own classroom? They look at research from a very practical point of view, and I think that is fine, but the social scientists generally have not dealt with it that way.

Now one social psychologist, a black social psychologist, it so happens, himself went through this experience.

In fact, he attended elementary school in the District. He went to an all-black elementary school here and an all-black high school here. Then he went to Harvard, and it was the first time he had gone to school with white fellow students. The great self-discovery he made, and he records it in his dissertation, is that he realized for the first time that being white does not mean being better than. In fact, in math classes he was a teaching assistant and he realized he was one of the best students in class. This was the first time that he had ever experienced, he says, a contradiction to the idea that whites are superior.

He generalized it to say that desegregation creates a possibility, and I agree with Miller, a possibility of beneficial change. So it may be that one reason for black achievement rising, generally, and only one reason, may be that this reflects a more truthful, more accurate self-conception. And that though we often think of black children as being negative, knowing less than and so on, if you have ever taught any large number of black children you know you are just as likely to run across an extraordinarily bright kid. You are just as likely to run across a group of children who, in the main, are not deficient except in learning. That is to say they have not been taught, in many cases. So we do not have to be on the defensive about black children learning with white children in the sense that the black children have to depend upon the whites as sort of a favor. That is not the situation, but I must say this is all conjecture on my part, and based on my experience as a teacher, but social scientists have not looked into this question, and it is extraordinary when you think about it.

Dr. **Miller**. It is important to add that the anecdote that Professor Weinberg described is not the typical anecdote. The average difference in performance in the 6th grade class is 2½ grade levels equivalent between the black students and the white students, and the average experience of those black students is going to be one of failure in that setting, because the reward system in a school is properly how well you perform academically. And if you are performing at 2½ grade levels equivalent below those of most of the white students in the class that is not going to be an experience that you find rewarding and necessarily motivating. It is likely to be a demoralizing experience. The trick is to figure out what kinds of things can be done in those circumstances so that the experience is not one of demoralization.

Dr. **Weinberg**. I do not believe the evidence indicates that demoralization is, in fact, the general effect. What studies are you thinking of? What cities do you have in mind?

Dr. **Miller**. Well, it has in part to do with our conception of what the literature shows and how positive we think it is. But it also has to do with our attention to the process that goes on within classrooms, that if we simply ignore what is going on in classrooms and hope that things will magically turn out the way we would like them to that we may get ourselves into serious trouble in terms of achieving the outcomes that we desire, and that attention to the fact that this may be a very serious problem for students and for teachers teaching a sixth grade class, attention to that fact is the first step to getting us to deal with it.

Dr. **Weinberg**. No doubt.

Dr. **Crain**. Let me referee this one. I think I see a depressing compromise between the two positions. I think it is commonsense that if you are talking about a desegregated classroom where there is, as there often is, a noticeable achievement difference between the whites and the blacks in the room, that this is going to leave the blacks affected. I think Meyer Weinberg's point is that there is not good evidence that that disaffection is any greater than it is in a segregated school, where very often rather than having simply the black groups in the classrooms disaffected you will have the whole school building disaffected. I think that probably is closer to the truth in some of the places I have worked.

Ms. **Cooper**. That leads me to also question you, Dr. Miller, in your feeling or conclusion that it is not really a net gain, if, as in Louisville, black scores go up but remain significantly lower than the average white scores. Is that a fair summary?

Dr. **Miller**. Ideally what we would like to see in all chidren is that they are performing up to their maximum capability. Sure, that is a fine goal to have.

Looking at it from another perspective, if we look at desegregation as some kind of remedial program designed to cure certain social ills, then one has to ask what are the social ills, and does desegregation make headway toward them.

Now, we may have different answers depending on which particular social ills we look at. But if we are trying to talk about the ability to compete in the economic marketplace, then it seems to me that the most sensible definition of academic benefit is one that looks at black gains relative to white gains. And for that reason I would argue that gains on the part of both groups of equal magnitude, although from one criterion those gains are important and desirable, from the standpoint of another they are not.

So if you are asking am I opposed to it or do I think it is a bad thing if both groups improve, no, I think it is a good thing for people to improve. I do not want to be trapped into saying that, but I am saying in terms of this specific goal of being able to compete in the economic marketplace we would want a different criteria.

Ms. COOPER. Well, Dr. Crain, the other day a report came out from Michigan State University indicating that in New Castle County, test scores had shown gain for both whites and blacks. Black elementary students, for example, started out before busing 0.4 years behind the national average. After busing they were 0.1 years ahead of the national average.

The white students began before busing about a year ahead of the average, and 2 years after busing they were 2.4 years ahead.

Because the white achievement was significantly more than the black achievement, the gap had widened, although both blacks and whites had improved after the desegregation plan had been in effect for a couple of years.

How would you characterize this? The report characterizes it as a success.

Dr. CRAIN. First of all I characterize it as a bit of a mystery. The achievement tests administered by the New Castle County school system show gains in white achievement which are incredibly large. According to those test reports the white students in New Castle County are learning at a rate three times the national average over a 2-year period. There could be a lot of things hapening in New Castle. It is a brand new school system because it is a metropolitan plan with a brand new superintendent with an effort to unify a curriculum which had initially been in 11 school districts. I think almost anything is possible to come out of New Castle. I would like to hold back a little bit.

By contrast, Jefferson County's metropolitan plan is a little bit simpler, and the research department in Jefferson County is a good deal better than the one in New Castle. So I am a little reluctant to make any interpretation.

The question of how good should one feel if both white scores and black scores go up after desegregation, is a value question. It is not something that a social scientist could be much help on.

Dr. WEINBERG. I sent away for that report but I have already seen an earlier report from that study which dealt with parental evaluations of desegregation in New Castle County. Black parents are far more enthusiastic about the desegregation experience of their children. My guess would be that one reason for it is the fact that their children's scores are going up or that increased achievement is manifesting itself in some other way, perhaps more studying is being done, whatever the case is. I would like to emphasize that we should not pooh-pooh, from the parents' point of view, a school experience where they finally see their children learning more, because in one school system after another the typical experience that the longer they stay in the school system the greater their disadvantage is in terms of scores. So, if the situation has taken a turn for the better I think to the parents that would be extremely important.

Now, in terms of the magnitude of the white increase, that is unusual, to say the least. Not that it went up. It may go up now and then but I looked twice when I saw the figure. It may be a misprint. Next week it may be corrected, you know. But it is an extraordinary increase. I would wonder why it increased that much, especially when you keep in mind that there was a strike of teachers at the beginning of the school year. I am not so sure which school year the testing covers, but at one point, I think the first year, in fact the first months of desegregation in New Castle County there was a widespread teachers' strike, not so much in Wilmington, black teachers, as white teachers out in the county. I find it a little hard to believe that there was that kind of an increase under those kinds of conditions.

Dr. CRAIN. A last comment on that. Desegregation provides a very peculiar and unique opportunity for a school superintendent because he suddenly has an opportunity to accomplish a lot of things that he did not have the clout to do before and can blame it on the judge.

A good example is Detroit, which took a desegregation order and used it to create a massive vocational education program.

Another example is from Jefferson County where the county, this is the affluent, white suburban county, came to the judge and said, as best I have been able to find out, which of course is not written down, "We have this problem. We have a nice, affluent school district but we have never been able to persuade the voters to allow us to establish a kindergarten."

So they said would you please order us to establish kindergarten, and the judge did. I think over the next few years we will see some definite improvements in the white schools in Jefferson County because of the establishment of kindergarten.

Mr. WEINBERG. Whether they do it or not is another question. Occupational or career education in Boston has profited greatly from desegregation. In this last academic year, 1979–80, they opened the Humphrey Occupational Resource Center, a $40 million structure which is now an all-city facility where high school students go to their home high school in the morning or afternoon and come to the ORC, the occupational resource center, in the afternoon. No single school could do it if it were simply a neighborhood vocational high school. Again, it has to be attributed to the clout that the court has because the judge found specifically that vocational educational facilities of the Boston school system were very deeply flawed by deliberate segregation, and therefore this is one way of remedying it. It is very new and one should not make big claims, though they have high expectations.

Mr. EDWARDS. Mr. Boyd.

Mr. BOYD. Thank you, Mr. Chairman.

Dr. Crain, your testimony seems to be, as counsel for majority pointed out, more class-conscious than it is race-conscious. I take it when you speak in terms of blacks you are talking about low-income blacks and not middle- or upper-income blacks.

Dr. CRAIN. Yes, sir.

Mr. BOYD. And conversely when you speak about whites you are speaking about upper- or middle-income whites?

Dr. CRAIN. What I am saying is I am speaking about the average group.

Mr. BOYD. I take it there is no difference in achievement between low-income blacks and low-income whites, they both achieve on the same relatively poor level relative to other students, is that right?

Dr. CRAIN. Low-income whites score higher than low-income blacks.

Mr. BOYD. Why do you suppose that is?

Dr. **Crain**. I do not know. It will take another 50 to 100 years to erase the total effects of slavery, which is a quick answer, and what it means is I do not know, but I think there are major social problems which carry over from that.

Mr. **Boyd**. Which are outside the school?

Dr. **Crain**. They are not entirely outside the school.

Dr. **Miller**. Our measure of social class is a complex measure. As we conceptualize it it consists of several dimensions, and there may be some aspects of social class that bear on a history of a lack of education that is more true for the black group than it is for the lower-class white group. I think some have estimated that 100 years ago or 110 years ago only 5 percent of all blacks had as much as a kindergarten year of education on the average

Now of course when you average things it smooths over these big differences. There must have been some who were quite educated, but it could be that coming from a tradition like that takes a long time to overcome, that on income measures the two groups may be relatively similar today, lower-class whites and lower-class blacks, but in terms of this history of background they may differ, and maybe that is what he is talking about.

Dr. **Weinberg**. If I could reply to that, I have looked into low-income white schools and low-income black schools in Chicago in the last 3 or 4 years, comparing their achievement scores, and I find they are more or less the same. Then, on the other hand, I looked for middle-class black schools, of which I can only find one in Chicago.

The middle-class black school is a 90-percent black school, John J. Pershing School, very tiny school, 300 enrollment, in Chicago that is very tiny. They outscore in achievement scores numerous white middle-class schools in town, way over in the white segregated areas; many of those schools score lower than Pershing School does.

Mr. **Boyd**. Were they of similar size?

Dr. **Weinberg**. They are bigger, because there is no other elementary school in Chicago that small.

Mr. **Boyd**. So this is a smaller school and presumably smaller classrooms.

Dr. **Weinberg**. I think the classroom size is about the same. The crucial difference between the lower-class black school and Pershing is that Pershing draws on a middle-class residential area in a very geographically restricted area, and that is all it can hold. The school can hold only the kids who live in those few blocks. So it is an unusual circumstance.

Mr. **Boyd**. So the achievement level, though, is affected to a large degree not only by the social class in terms of income but also by motivation which comes from the home?

Dr. **Weinberg**. Sure. I am sorry, in Los Angeles there is a school, Windsor Hills, which was a 100 percent or 95 percent white upper-middle-class neighborhood. Then it changed and became 90 percent black, although economically the same level. In other words, black engineers moved in and took the place of white engineers, and black lawyers and so on. But as soon as the racial composition of Windsor Hills changed, the neighborhood and the school, the level of the school, the quality of education, dropped.

Parents, for example, now had to fight to get what used to be a matter of course in the school when it was a white area. So even though the class did not change, although black and white class are really not quite the same—but anyway, on the face of it, the class situation did not change—the racial consideration was crucial and the black parents had to, and as far as I know, still continue to fight very hard in an organized way to get what the school used to get without problems when it was white.

Mr. BOYD. Dr. Miller, if we are talking about increases in the segregated setting between white achievement and black achievement, white achievement increasing at a faster rate than black achievement even in a desegregated setting, I suppose that has something to do with the environment at home with white middle-class students and black lower-class students. How do we speed that up in a school setting to make each group of students achieve at the same rate? You cannot do it by mandated busing, necessarily, and you cannot do it by desegregation plans alone. How does one achieve that? And if one can achieve it, how does it impact ultimately on the economic capacity to earn?

Dr. MILLER. I wish I had a simple answer. I wish somebody did. I think that we have to come to understand the process in the classroom to know what to do that will be more effective.

Now, as Professor Crain has mentioned and as I have alluded to, people have begun to try some different ways of organizing the classroom learning structure that seem to fairly consistently produce better learning no matter who the school is. It remains to be seen whether in school systems or individual schools that use these procedures, it remains to be seen whether this results in an equal rate of advancement of both groups or whether in other circumstances it does something for closing the achievement gap that separates children.

Right now I suppose many people are happy with either outcome.

Mr. BOYD. Thank you.

Dr. CRAIN. To some degree this is a matter of values—whether a glass is half full or half empty. I look at the Jefferson County results and I see what are to me sizable gains for black students. The fact that the gap between blacks and whites has not closed is disappointing, but I feel good about what we have got. I feel the same way about some of the new reading curricula and some of the other strategies that have been developed out of various educational plans across the country. None of them have solved the problem by themselves, and I do not think we will see the problem solved in the next 20 years. We will see it worked on, and I will take whatever progress we can get.

Mr. BOYD. Would you agree that it would be impossible to solve the problem without some sort of improvement in the environmental attitude with regard to education? If, as you say, lower income blacks have a history, going back 100 and so years in some cases without an educational background and without familiarity with educational motivation, then how do you rectify that in a way that is demonstrated in the economic market?

Dr. CRAIN. There was research done to attempt to answer one question which was, "How do you take a largely undeveloped labor force and give them the values that they need in order to punch a time clock at 7:30 in the morning and do all the other things you have to do?" His conclusion was the way you do that was to build a factory, because in India and South America people are very responsive and he found, for example, that after you built the factory people who worked there would start reading the newspapers. You do not have to train them first to read a newspaper, and then build the factory.

So, I do not think we have to wish for some way to rebuild the black home. I think we just build the best schools we can and it will change eventually. It is going to take a while.

Mr. Boyd. One more question. Everything that you three gentlemen have said seems to hinge, as we have discussed, on the presence of middle-class whites in the school system. Dr. Crain said it is important to have a predominantly middle-class white school population. The concern which prompted these hearings was not so much a concern about desegregation, not so much a concern about the presence of a black student at a desk next to a white student, but rather concerns about court-mandated busing and the perceived inconvenience and ineffectiveness which flows from it in many cases.

If, indeed, you have white flight occurring as a result of a perception of a poor academic atmosphere, as a result of the inconvenience of time and distance which students are forced to travel, and therefore a resultant decrease in the white middle-class student population, as it has been documented in previous hearings, how do you effectively desegregate?

Dr. Crain. I think the only way to deal with that question is to work out what the pattern of white flight is in different kinds of situations. There is a good deal of good research on white flight now, and there is surprising agreement among people who started out politically on the opposite ends of the spectrum.

White flight is exacerbated by a court order which puts whites into predominantly black schools, which reassigns whites out of the home school and predictably reassigns them to schools in black neighborhoods.

Now, it is in the nature of the arithmetic that if you had a predominantly white school as, for example, New Castle County, then the schools are going to be predominantly white. That is straightforward. What is not so straightforward is that the blacks wind up riding the buses all the time. In Wilmington it is 9 years out of 12 that blacks ride the buses, and only 3 years out of 12 the whites ride the buses. That is not malicious. That is just the way the arithmetic works out.

So in situations where a school district is three-quarters white and one-quarter black, the problems of white flight are relatively small and containable, and that makes things rather cheery since the public schools in the United States are 80-some-odd percent majority, I guess. Most of the places that we are talking about having problems with white flight is not because it will cripple a desegregation plan.

When you get to a school district like Detroit—I guess Detroit was probably 60 percent black at the time of Milliken—in that situation the judge said we cannot desegregate every school, so we will write off half of the ghetto and desegregate the other half, creating schools that are about 50-50 black and white. That is done. There was considerable white flight, but also considerable desegregation, but not as much as you might wish.

When you get to a situation like contemporary Philadelphia where the public schools I guess are close to 80 percent black, in that situation the kind of traditional desegregation plan is not going to work, and as far as I know no one is going to ask for it. You can get almost as much desegregation in Philadelphia with a voluntary plan as you could with a mandatory plan, because when the school system is 80 percent black the amount of white flight you get might will equal the amount of desegration you get from mandatory desegregation. Mandatory desegregation is canceled out by white flight when the district is 80 percent black. We are talking about a fairly small amount of districts. Nobody is proposing desegregation for Philadelphia, and I guess nobody is going to.

Mr. Boyd. Dr. Weinberg, do you have a comment?

Dr. Weinberg. This last comment, the State Commission on Human Relations in Pennsylvania is insisting on desegregation in Philadelphia, but they never got a court to order it. Whether it can be done or not I do not know.

I was in Chicago about 3 weeks ago and one of the things I looked at were these two schools, one black, one white, and both groups of parents, white and black, are objecting to the desegregation. This was mentioned in Dr. Miller's statement. It is true, however, that these reflect different evaluations. The white parents who do not want that plan say that we do not want our kids to go to another neighborhood for a school. By the way, they abut each other; the schools are some seven blocks apart. And the leader of the black protest said, "Well, it is not that we object to our kids going back, that school is no better than this one."

But everyone in the neighborhood knows there is a third reason, and that is that for black adults to be caught in that white neighborhood is to almost guarantee they would be beaten up in the past. It is not safe to desegregate, and the black parents had great fears that their children would be mistreated in that other neighborhood.

I drove through both neighborhoods. They are carbon copies of each other. The same dreary houses, three-flats, broken concrete. The streets are in bad repair. I was there about a quarter to 9 in the morning because I wanted to see how it was before school started, and it really was extraordinary how alike the people are and their class, in a sense. And it so happens that because they are cheek by jowl with each other that it is easier to desegregate them. You do not need buses, although the black parents were afraid their children would have to walk through a dark viaduct, and the question came up that maybe we ought to have a bus, but it is not desegregation by busing, nothing of the sort, because they just walk, some of them two blocks, some five blocks, and the most seven blocks.

Dr. Crain. I do not want to make our picture of Chicago more negative than it should be. You do take the position that a court-ordered desegregation plan could desegregate many schools there, that there is something to be done?

Dr. Weinberg. Oh, yes, certainly.

Dr. Miller. Another thing needs to be said about your question. On the face of it it seems straightforward, if you have massive white flight and you use your middle-class students, and all of you folks are saying you need predominantly middle-class classrooms to do some good, are you not going to be in real trouble?

Another side of that is that the studies that we do that suggest that you need middle-class students are not studies that enable one to infer causal events. They are correlational studies, and we do not really know what it is about those situations where there seem to be benefits when the white kids are more middle class. It may not have anything to do with their middle-class backgrounds. It may have to do with what goes on in those school districts. It may have to do with things that go on in those particular classrooms or the teachers who teach those classes. We may discover that the social-class composition is not as important as we thought.

That just emphasizes what I said before, that we need a better understanding of the process. We used to think that the process would be something like this, that when you put these poor kids in with middle-class white kids that they will adopt middle-class achievement values, there will be some kind of personality change, there will be some kind of adoption of new standards or norms by the minority kids; they will adopt what the majority of kids in that classroom are doing.

Most of our work now suggests that process may have been a good, creative idea, but that is not the way things happen.

Other theorizing from other segments of social science says, well, kids engage in some kind of comparison between themselves and others with respect to relevant things that are going on in school itself, how well you are doing in school, and in that comparison process you gain information about where you stand relative to others.

Reasoning based on that kind of theorizing would argue that it would be better to mix kids who are equivalent in their social class rather than to mix minority kids with whites or a higher social class. We do not know yet what the answer is.

Mr. Boyd. Thank you.

Thank you, Mr. Chairman.

Mr. Edwards. In previous hearings we have had a number of witnesses that have discussed court-ordered busing or voluntary busing plans as a means of desegregation, and I believe that the testimony is rather overwhelming to the effect that it can be successful in implementing a desegregation order if there is community support, community understanding, support by local newspapers and by political leaders. In those areas where we have had the worst trouble, we have had political leaders including mayors and members of the school boards themselves and even members of Congress saying that the plans would not work, and that somehow they are bad for the community and for America.

Would you say the same thing insofar as your studies of these areas and desegregation plans throughout the country are concerned? That the statistics get skewed, so to speak, not only by splendid principle, but also by the degree of support and cooperation that is found in each particular community?

Dr. **Crain**. Yes, sir. It can be confusing though. The New York Times wrote an article about the wonderful desegregation of Greenville, S.C. I went to Greenville a few years later and Greenville had done a wonderful job of not getting any bad publicity. That was the only thing they had done right.

I walked into a white high school. A quarter of those students in that school were black. The annual big school play was "Oklahoma" and there was not a single black. Things sure as hell can go wrong, and that was a living example of it.

Jefferson County had lots and lots of bad publicity, but they are actually doing a pretty good job. So in some ways I think noise is not a bad thing necessarily. It wakes people up.

Dr. **Weinberg**. It also helps to have a Federal judge who insists that the constitutional violation be done away with. There are cases where there was pretty fair community acceptance but there was no main direction and the thing sort of floundered, and under those conditions it does not do much good to have general receptivity to the desegregation program.

On the other hand, also, there were cases in the South, in the late sixties mostly, maybe early seventies, where everybody said, every mayor and councilman said what they should have said. Somehow they ran out of followers, so that it did not do much good. So it is not an absolute 1-to-1 correspondence between community acceptance and leadership and making the thing go.

We can talk about specific cases, but probably the most horrendous example is Boston, because in Boston you had public officials including Congressmen and State representatives and State senators, mayors, school committee members who did almost everything they could to stand in the way of the desegregation order being carried out. It was in this case that you had a Federal judge who pretty well stuck to his guns. However, there was a whole aura of violence and unpunished violence which was allowed to develop and still exists today to some degree, although it is localized in one particular high school out of 17. The elementary schools, of course, were never any problem with violence. So it is very difficult to get community understanding when you have to work at it.

You mentioned the press. The former school reporter for the Detroit Free Press, who probably knows as much as many specialist lawyers in the field because he has had to report the story for years—he now is in San Francisco—has argued at one point that the newspapers, the press does not lead the public, it is the other way around. In other words, he was saying that the newspapers are as racist in their practices and in their reporting of racial matters and that in many cities they are not the enlightened people in the town. So one has to take that into account.

Yet I cannot think of one city I have been in and studied who would not rather have the press on their side, that is in terms of accepting the desegregation program. In Louisville the judge even tried to get the press and did succeed in getting the press to adopt a sort of list of guidelines governing how they would report the story, sort of report it on the positive side. There was hell to pay from various people in journalism at that kind of a thing. Also there was an effort to do that in Boston, but no other community, to my knowledge, has done that. Yet in almost every case I know of there is a strong effort by both sides of the argument to win over the press.

Mr. **Edwards**. Thank you.

Ms. **Cooper**. I just have one more question, something that was mentioned earlier by Dr. Crain about tendencies within desegregated schools to resegregate by various intentional and perhaps unintentional techniques. One such practice that appears to lead to resegregation within a desegregated school is ability grouping, tracking.

Earlier you testified that you theorized that minority students did better because of the perception of the teacher that it was a higher ability group and paced accordingly. Now parents of brighter students want their kids to be tracked for the same sort of reason. I think that they think that the pace will be faster and they will learn more. Those kinds of competing interests it seems to me are irreconcilable. Would you comment on that?

Dr. **Crain**. I do not think they are irreconcilable. I think an intelligent white middle-class parent, who has had the misfortune to spend as much time in this business as I have had, would conclude that it is OK for the classroom to have some low-ability students in it or some disadvantaged students in it. What he or she will demand is that the classroom be majority middle class. And since a classroom which is majority middle class and has some minority students in it seems to be the classroom which has the highest potential for minority student achievement, that is a compromise that will work, and since most desegregated schools are predominantly white it is possible to pull that off.

When I get involved in a community I get fairly angry when I see a school which is 75 percent white and where there are white parents insisting that the school be tracked so that the majority of kids in the school can be protected from this very powerful, apparently, minority of disadvantaged students, which I think is silly.

In most cases, in elementary school, there is no educational justification for ability grouping through probably grade 7 or 8. There simply is no educational justification for it. It is absolutely not necessary.

Ms. **Cooper**. It does not do them any good?

Dr. **Crain**. No, the high-ability students do not benefit from the tracking, and the low-ability students are harmed by it.

I am the only person I know who is a supporter of tracking in secondary schools.

I think in secondary schools students will tend to track themselves on the basis of the courses they take. A student assigned to calculus is going to be in a middle-class classroom. There is nothing that they can do to desegregate that classroom.

I think you have to make sure that homerooms, gyms, and the lineup of the classes are strictly distributed by ability so that they are not tracked. Beyond that the students are going to track themselves and I do not think that is altogether harmful. Everyone I know disagrees with me on that. You try to limit as much tracking as possible, but I have no problem with it. I think tracking is certainly harmful in the elementary school. There are a lot of predominantly black classrooms in predominantly black schools.

Ms. Cooper. How much resegregation is going on? Can we blame resegregation by whatever means for some if not most of the widening gap between black achievement and white achievement scores as students progress through their school careers?

Dr. Miller. In the absence of specific programs resegregation is the common event in desegregated schools. We have done now numerous observational studies in schools in Los Angeles, some of which are naturally desegregated, some of which were part of a busing program, and you see in desegregated classrooms clear resegregation on the playground and clear resegregation within the classroom.

Now, this doesn't necessarily have to occur. It occurs much more clearly for girls than it does for boys. We think this has something to do with differences in the kinds of games and sports that the two groups play. Girls play games that take one or two people, hopscotch or tetherball or jump rope, whereas the teams that boys have are larger teams, and you have to recruit from a wider array of kids, and so that reduces that problem somewhat, but that is the typical finding.

It is in some sense no different than sex segregation which is even stronger in the elementary school, and that too will persist, unless you decide that you don't want it, and take steps to institute programs that will do something about loosening those boundaries; but those racial boundaries and those gender boundaries are strong, a basis for organizing social events, and occur within the classroom as well as outside the classroom.

Ms. Cooper. Is there any reason to believe that that tendency has an effect on academic achievement?

Dr. Miller. I believe that the two things are independent. The social relations are in a substantial way independent of the academic relations. That view has been a common one up until now, and I don't know that anybody else holds it.

Dr. Crain. Norman, what about resegregation, the term used the other way, the separation of students into separate classes by ability? Do you think that is academically harmful?

Dr. Miller. I wanted to talk to you later and ask you about the research that you were referring to. I can imagine important reasons why in some cases ability grouping might not be bad in desegregated classrooms, especially if it has to do with certain content areas.

I can think of reasons on both sides of it, and I wanted to ask you about the evidence you were talking about. It is certainly the case that it doesn't matter what you do, whether you group them by ability or whether you don't, the kids know what is going on.

If you don't have ability grouping, they know who is the good reader and who is the bad reader, so from that standpoint, it just doesn't make any difference.

Now, there may be other important differences in terms of how teachers treat these two groups, and how they get funneled over the long course of education, how they get funneled into different programs, and there is certainly a lot of evidence from labeling theory, which says once you tell a person he is a certain way, that it is sort of self-fulfilling, and he acts to confirm what you have told him he is.

Ms. **Cooper**. Thank you.

Mr. **Edwards**. We are going to have to go now, because the House is going into session, but when you get back home I hope you will each write us about what we ought to do about public education in this country, which is not the subject of today's hearing. We are all in a state of shock about the declining scores not only of minority children but of the privileged whites of America, the competition that we are losing against overseas adversaries, especially in science and in mathematics and in all the various aspects of technological advancement that we need in this country.

In fact, I read in the paper yesterday, that high school students average 4 or 5 hours of homework per week, but 5 hours of television watching per day. What effect does that have on them being thoughtful creative adults? But the information that you gave us today is very valuable and we thank you very much for splendid testimony.

[Whereupon, at 11:50 a.m., the subcommittee was adjourned.]

SCHOOL DESEGREGATION

WEDNESDAY, OCTOBER 21, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 2226, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representative Edwards.

Staff present: Janice E. Cooper and Thomas Boyd.

Mr. **Edwards**. The subcommittee will come to order.

In the last few weeks, we have learned a good deal about the status of school desegregation in this country. A lot of the news is better than expected. We have learned that, when done properly, school desegregation not only vindicates the constitutional rights of minority children, but it also can provide substantial educational benefits to all students, and in addition, reap social benefits for the entire community.

Of course, we also know that it has not always worked out that way. What made the difference? Our first witness today is in a unique position to help answer that question and focus our desegregation efforts in the most productive way.

Dean Willis Hawley of the Center for Education and Human Development at Vanderbilt University served as the chairman of the panel that, for 7 years, studied virtually everything that is known about school desegregation. They came to some important conclusions as to what school systems can do that can improve their chances of successful desegregation.

Dean Hawley, we welcome you. Without objection your full statement will be made a part of the record. In addition, without objection we will include in the record the article from the New York Times, Wednesday, September 16, regarding your report.

We are delighted to have you here and you may proceed.

TESTIMONY OF WILLIS D. HAWLEY, DEAN, GEORGE PEABODY COLLEGE FOR TEACHERS, VANDERBILT UNIVERSITY, NASHVILLE, TENN.

Mr. **Hawley**. Mr. Chairman, thank you very much for the invitation to address the subcommittee.

The introduction of legislation in Congress that will prohibit not only the executive branch, but the courts from ordering busing has revived the debate about whether school desegregation has worked. A reasonable argument can be made that few communities have engaged in an all-out effort to find out.

However, given the substantial resistance to desegregation in cities around the country, it is striking that the available evidence indicates that desegregation has been, more often than not, of benefit to the students involved.

But, rather than ask have our efforts in the past generally been effective, it is important to know whether there are specific strategies that, if adapted to local conditions and if implemented with commitment, would result in more positive outcomes for students and communities.

As part of a continuing effort that began in 1974, my colleagues and I have recently analyzed more than 1,200 books, articles, studies, reports, papers, and court cases and interviewed 170 persons with knowledge and experience related to school desegregation.

The persons who have been involved in this recent 2-year study, which was funded by the Office for Civil Rights and the National Institute of Education, come from nine universities, the Education Commission of the States, and the Rand Corp.

As a result of this extensive examination of the available information, and knowledge, one can say that there are a number of things school systems can do that are likely to increase the effectiveness of desegregation.

The effectiveness of school desegregation must be measured against different and various goals. In our study, we were concerned with the effects of policies and practices on the reduction of racial isolation, the avoidance of resegregation, white flight within schools and among school systems, improved race relations, academic achievement, and community support for public education.

The context for desegregation and the chances for success in a given community are shaped by the pupil assignment plan. Comprehensive plans which are the product of intensive consultation with parents and decisive action to reduce racial isolation and increase educational quality are most likely to be effective.

More specifically, pupil reassignment plans are most likely to be effective across a range of goals when they:

Begin the desegregation of students at the earliest age possible;

Are mandatory but provide parents with educational options both within and among schools. Magnet programs can be effective when there are a substantial number of minority students in a school system. They are most effective in reducing racial isolation in the context of a mandatory plan;

Enrich the curriculum in all schools, not only in "magnet" schools;

Affect the entire community and all ages of children simultaneously; phasing in plans results in greater resistance and exits from public schools. Plans such as this by themselves trouble and encourage white flight and generally destroy confidence in their own systems;

Take into account the special needs of different racial and ethnic groups;

Encourage stability in teacher-student and student-student relationships and otherwise reduce the uncertainties parents have about where their children will attend school and who will be responsible for their education;

Retain a "critical mass" of students of any given race or ethnic group; that is, 15–20 percent, in each school, if possible; and

That percentage may vary by the character of minority population in the school, the nature of residential patterns in the community, and other factors.

Mixing students by race and ethnicity establishes the basic conditions for desegregated schooling, but it is what happens in schools and classrooms that determines student outcomes. What happens at the end of the bus ride and within classrooms is what makes the difference. Among the things school systems can do to increase the likelihood that desegregation will improve achievement and race relations and avoid resegregation within schools are:

Create schools and instructional groupings within schools of limited size that provide supportive environments in which teachers can know most students and can provide continuity in learning experiences. We are talking here about schools within schools, smaller schools, strategies of instruction and other programs, should have desegregated administrative, teaching, and counseling staffs.

Develop multiethnic curriculums—but I should note that in and of themselves those curriculums may not be effective. Let me note that we often approach the problem of human relations as a kind of separate activity, a brotherhood day or a once-a-week session where there is an announcement that says that we will now talk about human relations. These kinds of programs are not likely to be effective.

Make human relations the fundamental component of everything that is done in that school.

Maximize direct parental involvement in the education of their children. Let me note here that schools are not used to doing such things. School desegregation places a special demand on schools to take the initiative in seeking parents out. One of the problems that, of course, is created by school desegregation is that parents sometimes are at greater distances from the schools than they would otherwise be.

There is a rather simple answer to that in many communities and that is to bring the school to the parents in the form of holding teacher-parent meetings, PTA meetings, and the like in the school nearest the student's homes, in community centers, and other places in the community such as, for example, a housing project, if there is one involved, or in churches and the like.

Discourage interstudent competition while holding high and attainable expectations for individual students.

Maintain discipline through clear rules of student behavior that are consistently and fairly enforced.

Maximize participation in extracurricular programs that provide opportunities for interracial interaction. That is somewhat more difficult than it sounds and it means that school systems should plan early to have effective interracial integration outside the classroom. If you want to have an interracial orchestra, for example, you must have a strings program in primary schools.

Two serious threats to the effectiveness of school desegregation are flight of the middle class from public schools and what we might call system overload. Some things which are most effective in reducing racial isolation—for example, mandatory reassignment of whites to schools in minority neighborhoods—or enhancing achievement and race relations—for example, desegregating kindergartens—also can increase the flight to suburban or to private schools in some cases.

School systems can reduce the overall effects of middle class flight by providing accurate and thorough information to parents, involving the community in the development of the assignment plan, acting promptly, minimizing disruption, actively recruiting private school parents, taking the offensive in providing news to the media, creating incentives for integrated housing, and pursuing metropolitan-wide desegregation programs and plans—including cross district voluntary programs—and providing diverse and advanced curriculums.

School systems undergoing desegregation are often experiencing other changes such as enrollment losses because of birth rate declines and suburbanization.

It might be important to emphasize that school desegregation might be the lightning rod for concern about a broad range of educational issues throughout the country because it is clearly the most visible thing in the lives of many parents. I might add, for example, that the extent of the change in birth rate is really dramatic. Congress will witness that very soon as reapportionment takes its toll on the north and we see increases in delegations from California and from Florida and throughout the Sunbelt. For example, in many northeastern districts that are not undergoing desegregation, one can expect about a 4-percent decline in the white student population of the city per year.

If we look across the country, we that see there is a declining proportion of the white population in all schools taken at as a whole—about almost 2 percent a year. That pattern is true though to a lesser extent, in private schools as well and it is important to keep that context in mind when you talk about the problem of white flight.

In any case, these population changes are taking place.

Other changes in schools undergoing desegregation include the introduction of programs for students who are disadvantaged, handicapped, and have limited proficiency in English, demands to reduce drug abuse and teenage pregnancy and to provide instruction in health, free enterprise, and consumer and environmental protection, controversy over textbook content, and, more recently, tax revolts. All of this can overload a system and overwhelm even the most able teachers and administrators.

So desegregating school systems have a special responsibility, therefore, to provide support and professional development opportunities to teachers and principals.

Let me add an aside. Congress has an opportunity to provide some support in this regard. Moreover, in-service training needs to be continuous and responsive to the specific problems with which educators are troubled. I would note that school systems as a whole do a relatively poor job of in-service training as compared to industry. The amount of effort that the public sector places in the training of its personnel is disgraceful.

In providing professional development opportunities, desegregation should not be treated as a separate event that is unrelated to tasks of providing quality education, maintaining order and otherwise achieving the various missions of the public schools.

The strategies identified here carry no guarantees. School desegregation, like any other educational policy, depends fundamentally for its success on the commitment and capabiity of school personnel and the support of those on whom schools most depend, especially parents.

Debates over school desegregation are often dominated by myth, anecdotal war stories, and promises of easy solutions. Desegregation has increased demands on school systems and on communities. In some cases, this has resulted in unhappy outcomes. In others, it has resulted in needed improvements in educational programs. While many of the shortcomings of public schools and many of the nationwide demographic trends are blamed on school desegregation, the available evidence indicates the costs of desegregation have been overstated and the benefits have been underrecognized. In any case, it seems time to focus our attention away from the past to what can be done to improve public schools.

Our study was not designed to discover whether desegregation invariably benefits students and communities. It does instead provide a basis for challenging claims that desegregation does not and cannot result in effective education.

Mr. Chairman, I would provide a more detailed report to this committee whenever you should see fit.

Thank you.

Mr. EDWARDS. Well, the additional material will be made a part of the record, without objection, Dean Hawley, and we thank you very much for a splendid testimony.

We have some questions for you, but we will have to recess for 10 minutes while there is a vote in the House of Representatives.

[Recess.]

Mr. EDWARDS. The subcommittee will come to order.

I apologize for the delay. I might point out, Dean Hawley, that what you observe would do better in a more perfect world. Politicians at the State and Federal level and parents and voters are not particularly interested in this day and age in providing some of the enrichment programs that you mentioned.

Indeed, they do not seem to be terribly interested in providing quality education in public schools or in private schools either.

So I hope we can start to turn that around some day and then desegregation would certainly work a lot better. You so rightly point out that it is a part of the whole program. It is a part of the whole web of things that must be done in education.

Mr. HAWLEY. Mr. Edwards, I think you have said that quite well. I think the irony is that we have, in the last few years, begun to really understand more about what makes schools effective in a nonincremental way. The research is really quite encouraging and provides much more detail than in the past. We have gotten away from the idea of general findings and down to what is really going on in schools.

Also, we know a lot more and we have begun to see some of these ideas implemented. You can look around the country and it is really quite surprising, I think, in view of the popular mood, to see so many school systems making progress, school systems you would not expect, frankly, to see having increased test scores.

The Secretary of Education, the other day, singled out Jacksonville schools as an exemplary school system that 4 years ago was termed by folks in that area as a disaster. Jacksonville is desegregating a school system that is about 40 percent black and has made dramatic changes.

You look around and see the same pattern in Nashville and New Castle County—Wilmington—New York City, Louisville, Washington, D.C., and Newark, N.J.; and you say what has happened?

Well, it may be that people are getting their act together. Maybe they have learned how to use some of these resources they have been provided, maybe researchers have had something to say that has made a difference. Things are now happening. It is an irony.

Mr. **Edwards**. Miss Cooper?

Ms. **Cooper**. Thank you.

After hearing your testimony and earlier testimony, I am beginning to think that those communities that have made a concerted effort to improve education in the process of achieving desegregation are really doing better than communities that have not been forced to change under the impetus of desegregation.

Would you say that is correct?

Mr. **Hawley**. I think it would be hard to make that as a scientific statement because we do not have a national sample of those communities that have not been under court order.

However, a lot of these studies have comparison groups and I think the basic thrust of your question, as I understand it, is correct. The assumption is that when school desegregation occurs, school systems have to stop and say, "What have we been doing?" And whether it is because citizens are watching over their shoulders, because parents are making greater demands or because the court is sitting on them or because of pressures and assistance from a State agency or Federal agency, or whatever, there is a reexamination. And it is very clear when we look at these school systems that new things happen.

This is not a magical process in which kids are mixed together and all of a sudden something good happens. There are new programs adopted. There are changes in teacher behavior. There is some in-service training that did not happen before.

As I say, there is a kind of introspection that is not common in organizations that do not experience some kind of crisis. So, school desegregation in some instances has that kind of effect.

I think one would say that the shock effect goes on a little longer than one would like it to be in many communities, but those communities that take hold of this opportunity and say, "We are going to make the best of it," in the common language do, in fact, seem to do better on the average than they did before.

Ms. **Cooper**. The other day we heard testimony from three experts on the subject of the impact of desegregation on academic achievement. All three of these witnesses, although they had different perspectives, agreed that the crucial element for obtaining gains in achievement test scores was the infusion of a certain and minimal percentage of white middle class students. They did not really know why that factor was correlated with improved achievement test scores, but that seemed to be a common denominator.

In reviewing the experience of a number of communities that have gone through desegregation plans and have had improved test scores, do you have any idea of why that occurs? Is it more resources, is it exchange of values between white students and black students, improved self-image, or what?

Mr. **Hawley**. I think the folks who testified earlier were probably right in saying we do not know for sure. I think there is increasing evidence that the most popular explanation for why achievement increases is probably not right. That explanation is what sociologists call "the lateral transmission of values." The idea is that if a low-ability student sits next to a high-ability student they will acquire their values or emulate them or whatever, just because they sit there.

Rather, it is that those students are, in effect, resources that a teacher who knows how to work with students can use to create learning situations that did not exist in that class before. Students learn from each other in a direct way, but that only happens when teachers make it happen. It does not happen accidently.

It may also be that teachers who deal with heterogeneous classrooms learn that you have to deal with students as individuals and they therefore begin to be more sensitive to stereotyping and low expectations they have held for minority students. This benefits not only minorities and low achievers, but high achievers.

One of the things not to lose sight of is that in many of these communities the gap between black and white achievement does not narrow, but both groups go up. Many of the studies do not focus on white achievement. The primary concern has been what has happened to minority groups. I think that has been a mistake for political and educational reasons.

A fourth thing I would say is that when you are changing the socioeconomic characteristics of students you are also changing the socioeconomic characteristics of parents obviously enough. Parents who are middle class are in a better position because of experience, time, and status to make demands on a school system and to feel comfortable in going in and working with fellow professionals and, in a sense, not being so easily turned off. There is a concept that we talk about in parent-teacher relationships that teachers learn how to "cool the mark." They learn how to work with the parents in a way that parents assume that things are all right and thus do not make demands on the system.

All professionals do this to their clients, but middle class folks who do this to other people are less tolerant of it and see through it and make demands. So there are both political and educational explanations, I think, for why this happens.

Ms. **Cooper**. But it is happening and that leads me to my next question.

Why, given this, does not the public perceive this? Why is there such a gap between the public perception of what is going on in desegregated schools and what the social scientists are telling us?

Mr. **Hawley**. That is a question we ask ourselves a lot. I have thought something about that because, of course, when you make talks like this people always say, "How can you be so wrong?" I think that there are several possible explanations for why the research seems to contradict popular views.

Almost certainly, when desegregation occurs people begin to be more interested in schools. By and large, parents send their children to a school and hope for the best. They assume things are going well and that is the responsible thing to do as a parent. You really do not want to know all the weeknesses because if you did, you would have to invest a lot of energy and time and so forth in the enterprise. So what school desegregation has done is to bring people in closer contact with the schools and some of the fantasies they had about the way it was in the "good old days" or the way it was even recently are not sustained.

So, part of what has happened is that people are finding out that schools are not quite as good as they thought they were, independent of desegregation itself. The irony is that even though desegregation may lead to achievement gains, those gains can never reach the levels of the expectations people had to start with.

The second thing is that expectations themselves change. I think many parents who are supportive of school desegregation use language like this, "Well, I think that it is a really good thing for my kid to go to a school where they get to know children and people from other backgrounds." But there is an assumption in that statement that somehow they are going to lose something in the process.

The parents who are not sympathetic to school desegregation bring that same logic to bear in saying, "We want more for our children than we had before." There is some kind of sacrifice they are going to make as a result of desegregation and therefore that school is going to have to be better than it was before desegregation. What was once satisfactory is no longer satisfactory.

Third, there is simply an assumption that minority schools cannot be good schools. If you are sending your child to a school that was formerly a minority school, it just does not logically fit that it could be a good school. All of the evidence is that minority children achieve at lower levels than white children, so how could a racially mixed school it be as good as a predominantly white school?

Fourth, a common way of presenting the story in the newspaper is to present a positive point of view and a negative point of view. This is "a balanced perspective." If you are a parent and you say, "Well, there is a 50/50 chance that things are going to go well in that school," the responsible position is that you are not going to take that risk. I am not very happy about those odds. We certainly want our children to be secure and every incident that occurs in the school is generalized. If there is a violence level of 2 percent in a school, my concern as a parent is that my kid is going to be one of those 2 percent. When those issues become more and more visible, our sense of anxiety and concern is heightened.

So I think all of these things operating are part of the problem.

I believe that school desegregation, as I said before, was kind of a lightning rod for all of the negative or unfamiliar things that had been going on in desegregated schools. All the changes that are taking place are seen as the product of desegregation.

So if anything is not going well in a school it is easily traceable to desegregation. Surely, for example, you cannot have the interracial conflict in a segregated school. So, automatically, you are going to have interracial conflict in desegregated schools.

In fact, we do not seem to have that much more serious conflict in desegregated schools, but we do have racial conflict and that kind of conflict is a lot more frightening to us, almost all of us, I think, than intrarace conflict.

I don't want to be facetious but there is a notion, for example, that whites overcount blacks. If there are two blacks, many whites see three and that reflects a kind of anxiety about things we don't know about and that is also part of the story.

Ms. **COOPER**. As you noted in your testimony, desegregation can have several, sometimes competing goals, but constitutional law seems to require first and foremost the ending of racial isolation and achieving some form of racial balance within a school system and within its individual schools.

In your review of particular court cases, did you find that the courts were concerned solely or primarily with racial balance or did they take other goals into consideration as well?

Mr. **HAWLEY**. Well, that has varied by the court as you know. Increasingly courts have taken into account educational variables. Most visibly in *Milleken*, a Detroit case, that has been in Supreme Court, upheld the appeals court which ordered specific educational remedies. I think the pattern has been that courts have been more involved in educational remedies than they have been before. Often, I would add, on grounds that are somewhat idiosyncratic.

There is, I think, a legitimate argument made about how far courts should go with respect to prescribing educational remedies. Surely the pattern has been for courts to be more involved in things beyond racial balance than before.

Ms. **COOPER**. How does the court get the information it needs as to how to obtain an educational goal? How have they and how could it be improved?

Mr. **HAWLEY**. Characteristically court decisions are an adversarial process. The plaintiff chooses their advocates and the school board chooses theirs. Depending on who is chosen that is the educational strategy you get.

My own view is that the adversarial process is not a good way to develop educational remedies and, as a result, I think we get somewhat interesting and strange proposals in some cases.

On the question of how it should be done, it seems to me that courts need to depart from the adversarial process in prescribing remedies and perhaps move to administrative processes for determining appropriate educational strategies within the context of each school system. There is no right strategy for every school system. We used to think that in the good old days, but it is not true. You have to adapt to what the conditions are in the school system involved and in a given school.

So, I think that to the extent the court is going to get involved in those issues, it ought to do so more in an administrative process interacting with the local school system perhaps using some of the local expertise that is available through title IV centers and other sources of information.

Ms. **Cooper**. Can you give us an example of a community where that happened? Where the court was able to work with the community and school board in a way that maximized the educational benefits?

Mr. **Hawley**. I can't think of one off the top of my head. There are several variations on that. In Los Angeles a judge set up a panel of researchers, which is one way to do it, but it does not get to the interactive process that I would be looking for.

Sometimes the master does that work for the court and there was some of that in the *Louisville* case. I believe that in the *Milwaukee* case there is some of the interaction I seek but I cannot give you an example of a model that I would advocate.

Perhaps Dr. McPartland can.

Mr. **Edwards**. Mr. Boyd?

Mr. **Boyd**. Thank you, Mr. Chairman.

Dr. Hawley, the chairman made reference to a number of suggestions which you include in your statement as a means through which school districts can achieve a better degree of desegregation. These hearings were brought about, at least in some degree, by people who are concerned about the cost and effectiveness of those type of programs. Ultimately, in your judgment, who is going to pay for them? As a practical matter, who is going to pay for them?

Mr. **Hawley**. Most of the things that we have identified do not cost very much money. You make choices among policies as we always must do. For example, with respect to busing children about 3 to 4 percent of the busing that goes on is for the purpose of school desegregation. So, I guess my answer to you would be that the people of the country are going to pay for it. They have to make choices about it, but we believe that a great deal could be done in the absence of very expensive programs. Most of the ideas outlined in our study are not very expensive as far as I can tell. They may require changes in the pattern of allocations of resources that now exist.

But there is no doubt that we will have to decide that we want quality schools, and that is going to cost some money whether we do it through desegregation or some other method.

Mr. **Boyd**. We are having problems now with jurisdictions, States and localities that are unwilling to vote on issues to further fund the schools, because they don't see that their tax dollars are effectively improving education. If that is a perception, even if it is an incorrect perception, how do we as a government deal with it?

Mr. **Hawley**. Well, one response to that would be that that is an important role for the Federal Government to play; to, in a sense, fill in the need.

Mr. **Boyd**. The Federal Government should provide the funds, is that what you are saying?

Mr. **Hawley**. It depends on the types of programs we are talking about. One of the things we are talking about here is teacher training. I think there is a legitimate role for the Government to play in teacher training. I believe that in providing technical assistance, while the performance of that role has not always been as effective as I would like it to be, is a legitimate role for the Federal Government to play at a relatively low cost. School systems need ideas and encouragement and support, and that doesn't always mean a lot of money.

Mr. **Boyd**. Isn't it also true that school systems need good teachers and a lot of Federal and State regulations result in incredible bureaucracy? A lot of high school and secondary school administrators and teachers are generally low paid and difficult to find as a consequence. Isn't that an inevitable consequence?

Mr. **Hawley**. I don't know that there is a relationship between teachers' salaries and the level of bureaucracy in the school system.

Mr. **Boyd**. Given a finite amount of funds.

Mr. **Hawley**. I thought the point was that a lot of bureaucracy occurred as a result of the Federal programs which funded those folks, and I think that is generally the case. I would agree with you that we have fragmented the educational process by adding all the specialized roles and so forth that this results in some of the difficulties we have in administering social programs at the classroom level. And I think that to refocus our attention on quality teaching is indeed the right direction to move. In fact, we might try to find ways to allow teachers to play a greater role in organizing their schools so that these various programs don't compete with each other and, in effect, train kids two and three times over.

I think there is some waste, and we could make some progress in that regard. But I don't think that that poses problems for the basic premise of school desegregation.

Mr. **Boyd**. You were quoted in the article which the chairman made a part of the record as saying that the Reagan administration believes the American people want to withdraw from desegregation. Is that a conclusory remark on your part or can you give us a source?

Mr. **Hawley**. No, I can't give you a source, except that my understanding of what the administration has been saying is that the country wants to get on with other things. Just the other day the Assistant Attorney General for Civil Rights made a similar statement about we are going to back away from busing and move into quality education.

Mr. **Boyd**. So you are equating difficulty with court-mandated busing with opposition to desegregation?

Mr. **Hawley**. I think that the evidence is that, in most communities where desegregation is a substantial issue, busing has to be a part of a desegregation plan, and so to that extent, I believe there is a movement away from desegregation. Also, if you will note, the administration urged that we block ESAA funds. Its initial proposal would have zeroed out the title IV centers. I think there is other evidence that desegregation is not a high priority of this administration.

Mr. **Boyd**. You would favor, I take it from your testimony, two-way busing from inner-city schools to suburban schools; is that correct?

Mr. **Hawley**. I don't favor two-way busing, nor do I oppose it. What we did in the report was try to point out the cost and benefit of two-way busing. I think each community has to make the decision for itself, depending on its own circumstances, about whether or not it is going to pursue two-way busing.

What we said is that some of the assumptions about two-way busing need to be clarified, and that is what we tried to do in the report. I can elaborate on that, if you like. But I wouldn't advocate any particular policy for all communities except the early desegregation of children. Beyond that, I think we have to be flexible about the kinds of things that we do, looking at each local circumstance, treating busing, for example, as a last resort that would be needed in most communities but not all—in some communities only marginally, and in some communities, a little more so.

Mr. BOYD. Some communities are concerned about having their children bused into the inner-city schools, not because of the presence of black students, but safety hazards and disciplinary problems, where teachers may or may not be able to concentrate on teaching because of the disciplinary problems that they face in school. Those are very real problems, are they not?

Mr. HAWLEY. They are I think it is right to say that inner-city schools are typically characterized by more behavioral problems and the like. But it is incorrect to say that those schools are necessarily so or that the parents usually have hard evidence about that before they make their decisions.

The most substantial amount of white flight from schools occurs before parents experience desegregation, before their children experience that. It is very clear, however, quite aside from the issue of educational judgment, that the notion of sending one's child to another community with which you are not familiar, whether it is black sending their children to whites or whites to blacks, does contribute to white flight. I don't think there is any doubt about that.

Mr. BOYD. Isn't it true that it is difficult to get better teachers, if you will, to opt to attend and teach at inner-city schools because of their own fear for their own personal safety? If you can't get the teachers to teach at the school and you have a high teacher turnover, how do you achieve an effective educational program?

Mr. HAWLEY. The assumption that all, or even most, inner-city schools are characterized by the chaos and disruption is one that I don't want to buy into. I think that those are caricatures which are based in some reality but are misleading in many cases.

There are a good many high quality inner-city schools, and I think the task we have is to identify and differentiate those inner-city schools which are highly productive from those which are not and take positive steps to change those which are not.

Mr. BOYD. But there is a high teacher turnover in inner-city schools, is there not?

Mr. HAWLEY. I don't know the answer to that. In this day and age of teacher surpluses, there is probably less turnover in general in the teaching profession. But it is also true that some teachers would prefer to teach in environments in which they feel that there is less stress, and so forth. The other side of that is that many teachers, in fact, seek out the opportunities where they can have the greatest impact, and it may be that in those environments we find some of the really strikingly effective teachers. That may account for why the data are so clearly and so counter-intuitively in support of the idea that, generally speaking, we get positive outcomes from desegregation, whether it is kids being bused out or kids being bused in.

Mr. **Boyd**. The point I am trying to make is simply that most of the programs which you list and which you have discussed have as an essential element the presence of effective teachers.

Mr. **Hawley**. Yes, sir.

Mr. **Boyd**. Previous witnesses have testified that teachers, because of seniority, choose not to attend the inner-city schools for a number of reasons, not the least of which is their perception of the safety level.

Mr. **Hawley**. Well, there is no correlation—at least not much of a correlation—between experience and effectiveness. Once you get beyond the first 3 or 4 years, the experience variable doesn't predict effectiveness in studies of teacher effectiveness. So, if teachers who are more tired, less willing to take on a challenge, and so forth, are seeking out the suburban schools, then perhaps that might be one of the reasons for the findings that we have.

Mr. **Boyd**. Thank you, Dr. Hawley.

Thank you, Mr. Chairman.

Mr. **Edwards**. Dr. Hawley, I have one question. One of your study's conclusions is that voluntary integration hasn't worked. Why hasn't it worked?

Mr. **Hawley**. Well, let me qualify that by saying that there are forms of voluntary desegregation, such as magnet schools, that may bring about desegregation in some communities where there are relatively small numbers of minority students, and that is simply because the relatively small number of white parents volunteering for desegregation along with the relatively large number of black parents volunteering for desegregation can bring about desegregation. But in school systems that have minority populations for 20 percent, 25 percent, or more, there are very few examples where substantial desegregation has been brought about. That, of course, is a pattern not just seen by social scientists but evidenced by a whole range of cases. Every system seeks to bring about desegregation voluntarily, but plaintiffs go back into court saying that not enough racial balance has occurred and they go from there.

I might note that some time ago, you had David Armor testify in this committee, and David Armor points to San Diego as a case in which there has been effective use of voluntary planning. One thing that is clear about San Diego is that it has not experienced the massive white flight that Boston has had. But there has been over the last 4 years a 16-percent decline in the white population in San Diego at the same time that there has been a relatively small change in the amount of desegregation that has occurred, and that is racial balance. The desegregation index in 1976 was .72 and in 1980 it was .78, and so you do get some increased reduction of racial isolation, but you don't get a lot even in a city where we see a positive, nationally acclaimed strategy.

I might point out that in San Diego, which is now 33 percent black and Hispanic, and 11 percent Asian, a third of the minority children attend schools that are 70-percent minority. So there is a substantial amount of what I would call racial imbalance in the city of San Diego in the face of what is supposed to be a terrific voluntary desegregation plan.

Mr. **Edwards**. Thank you very much. We appreciate your testimony.

Our second witness today is Dr. James McPartland. He is codirector for the Center for Social Organization of Schools at the Johns Hopkins University.

Dr. McPartland has done research which provides new insight into the impact school desegregation can have on the lives of black students. That impact does not end with graduation from high school. In the long run this may be the most important ramification of integration of our public schools.

Dr. McPartland, we welcome you and you may proceed.

TESTIMONY OF JAMES McPARTLAND, PH. D., CENTER FOR SOCIAL ORGANIZATION OF SCHOOLS, THE JOHNS HOPKINS UNIVERSITY

Mr. **McPartland**. Thank you. I am pleased to have the privilege of being here today. My report to you will concentrate on the study of long-term effects of school desegregation and on the knowledge we have gained about how to operate an effective desegregated school. It is useful to put these research results into the context of how most Americans currently seem to think about school desegregation.

There is overwhelming approval of the principle of desegregated schooling. All public opinion surveys show a steady increase over the years in support of this goal, to the point where today the vast majority of both black and white citizens favor the idea that white and black students should go to the same schools.

At the same time, citizens appear to think about busing for school desegregation in their own localities in terms of the direct costs and benefits as they see them. In this calculation, it is often easy to understand the immediate and obvious costs, such as extra time and expense for student transportation. It is more difficult to accurately anticipate the kinds of experiences students will have within an actual racially mixed school. And it is especially hard to get a true expectation of the ways desegregated schooling is likely to change student outcomes or to influence students' abilities to build a successful adult career.

Recent research provides a more clear, correct, and comprehensive picture of student experiences in racially mixed schools and of the effects of attendance at desegregated schools on a wide range of important student outcomes. While early desegregation research was able to look at only a few outcomes with limited data, social science research in recent years has been able to address the following more complex and important questions:

First, what are the long run effects of attendance at desegregated schools?

Second, what are the optimum conditions for beneficial effects from attendance at desegregated schools? Are techniques and materials available to create the best conditions in a practical and dependable way?

Third, which of the beneficial effects of school desegregation may be accomplished in other ways, through alternative educational approaches, and which benefits depend directly upon student experiences in racially mixed schools?

I will begin with studies of long-term outcomes. In addition to the improved studies of immediate student outcomes, recent social research has been extended to consider potential long-term outcomes of school desegregation. This work establishes a broader rationale for school desegregation policies. Instead of thinking only about how school desegregation may benefit individuals, by increasing student test scores or reducing prejudice, we must also consider how desegregation contributes to the structure of fair opportunities in adult life. We are finding out how the racial isolation in present day American education is delaying progress on the national problems of the continuation of race and sex inequalities in adult career success and the perpetuation of segregation in American communities and institutions.

The usual social science explanations for these problems have concentrated on differences in educational skills and personal resources held by race and sex subgroups, or on the problems of overt discrimination in housing and labor markets. This Nation has indeed made major steps forward in reducing race and sex gaps in educational skills and credentials and in eliminating intentional discrimination against minorities. But these steps have not produced the expected improvements in income disparities and racial segregation of communities and institutions. It is apparent that public policies that concentrate only on improving the quality of schooling and reducing intentional discrimination will be limited in their effectiveness for solving the continuing income inequalities and segregation problems in adult life. Recent research has suggested that public policies to encourage school desegregation can help to address some of the underlying conditions of income inequalities and adult segregation that are difficult to penetrate in any other way.

Research has indicated that school desegregation can provide fairer access to career opportunities, by reducing important structural and psychological barriers to fair adult competition. To understand the sources of race and sex inequalities in employment and income, we need to go beyond the explanations that focus only on intentional discrimination and the quality of schooling for job preparation. To be sure, the elimination of overt discrimination and unequal schooling remain important national priorities. But serious race and sex inequalities will remain after these problems are solved unless we also can find ways to deal with specific exclusionary barriers that unfairly restrict the career opportunities of minorities.

There is growing evidence of the importance of exclusionary processes that inhibit qualified minority group individuals from ever appearing in the first place as applicants for desirable positions, due to their position in society as members of a racial or ethnic minority. Although these processes may not be caused intentionally, they nonetheless channel minorities in less promising career directions, exclude minorities from avenues of access used by other groups, and create burdens that foreclose minorities' consideration of potential opportunities. I will briefly list three examples of barriers to equal opportunities, and describe how school desegregation is related to these issues.

First, minorities continue to be overrepresented in a restricted range of types of occupations, and these so-called traditional fields of work offer less income payoff for each additional year of educational attainment than other occupational fields where minorities are underrepresented. I am thinking, for example, that minorities tend to be in social service fields and not in business and scientific fields.

School desegregation appears to be an effective way to encourage a more rapid movement of minorities into the nontraditional fields that have frequently been closed to them in the past. The school years are especially important for developing career goals. Research shows that racial differences in occupational choices first occur during the junior and senior high school ages. Other studies indicate that black males who had attended desegregated high schools were more likely to wind up in nontraditional mainstream careers in sales, crafts, and the professions than those who had attended segregated schools.

Second, good jobs are often found through the use of informal networks of information, contacts and sponsorship, which appear to be less accessible to minorities in segregated environments. Recruitment, hiring, and promotion practices of firms often use informal social networks to locate and evaluate candidates. Unless minorities are tied into these networks, they may rarely be in the right place at the right time to become applicants for promising positions. Some evidence exists that school desegregation opens fairer access to useful networks of information, contacts, referrals and sponsorship, and thus contributes to more equal opportunities for career success.

Third, the perception of opportunities creates the psychological conditions through which an individual approaches the labor market. When an individual expects to face discrimination in a career line or in a firm—even if this expectation is incorrect, out-of-date, or overstated—it is unlikely that the individual will bother to explore many possibilities in that area. On the other hand, an individual who begins with a strong sense of opportunity can draw upon this strength to build a career in a wide range of areas. Repeated studies have shown that blacks and other minorities have a much lower sense of opportunity than whites, and feel less personal control over their own destinies. While this often reflects the realities of differences in employment opportunities, research also indicates that school desegregation serves to reduce the racial gaps in perception of opportunities. Specifically, minority students who graduate from desegregated schools have been found to feel a greater sense of control over their own fate and a more positive sense of opportunity. Research also suggests that students' desegregation experiences directly improve these perceptions, and that upgrading the quality of schooling in a segregated setting would not have the same impact.

Thus, there is a growing awareness of important structural and psychological barriers to fair competition that continue to inhibit the progress of minorities, and a growing interest in how school desegregation can assist with these problems. Research indicates that it will not be sufficient to depend upon policies for improving school quality or eliminating overt discrimination to deal with these issues. On the other hand, school desegregation appears to be an important mechanism for reducing specific exclusionary barriers that contribute to race and sex inequalities in employment and income.

In another set of findings, research has indicated that present day student experiences in desegregated schools lay the foundation for a natural reduction of segregation in adult life and in future generations.

We know that continuing racial segregation in adult life cannot be adequately explained by racial differences in economic or educational resources. Differences in resources cannot explain continuing segregation in neighborhoods, in colleges, in types of careers, in places of work and in the kinds of schools for one's children. In each of these major adult institutions after we take into account racial differences and relevant personal resources, we find that forces of social inertia continue to impede the breakdown of racial segregation in adult life.

Social science studies show that segregation tends to be perpetuated across stages of the life cycle and across institutions, so that students from segregated schools are more likely to be found later in life in segregated colleges, neighborhoods and places of work, while students who had attended desegregated elementary and secondary schools are more likely to choose to live in desegregated neighborhoods, to enroll in desegregated colleges, to enter desegregated occupations and firms, and to send their own children to desegregated schools.

The research showing how elementary and secondary school desegregation contributes to desegregation in adult life is based on analyses of national data sources that provide information on the same individuals at several points in their life cycle. The first studies showing that black and white graduates of desegregated schools are more likely to live as adults in desegregated neighborhoods and to have children in desegregated schools, used a representative sample of adults that included data on their earlier experiences in segregated or desegregated schools. Recent overtime data on high school graduates was used to show how elementary and secondary school desegregation influences black students to enroll in desegregated colleges. Other recent studies that followed up black college students show how earlier experience in desegregated elementary and secondary schools is positively related to employment in desegregated work groups and to the development of racially mixed adult friendship groups. So there are impressive indications that students today in desegregated elementary schools represent an effective investment in future desegregation. In this sense policies to continue and expand the opportunities for students to pursue their education in desegregated schools can be expected to result in more naturally desegregated neighborhoods, labor markets, and schools in the future. Now, I will briefly turn to findings about the conditions of effective school desegregation. One of the most useful contributions of research in the area of school desegregation has produced an understanding of important internal conditions that make a racially mixed school work well, and the application of this knowledge to practical methods and approaches for the daily operation of such schools.

Research has developed dependable and inexpensive methods for organizing instruction and activities within the racially mixed school to foster improved student academic learning and positive race relations.

One example of a research based practical approach for operating a successful desegregated school, that has been adopted in hundreds of schools in all regions of the country, is a set of techniques known as student team learning. These techniques are used to organize daily instruction in the basic skills so that students work cooperatively on their learning tasks. By organizing each class into several teams of four or five students, including both blacks and whites and males and females on each team, and by recognizing student teams for their success at mastering the academic material, positive gains can be achieved in both student learning and race relations.

When the student team academic competitions in the classroom are structured so that each student can contribute to the team score by improving over his or her past performance, student team members will work together to learn the material. Because the team competition structure directs powerful peer pressure toward academic tasks, both black and white students learn better under these arrangements. Because students regularly work together within teams across race lines for a common goal, positive student race relations develop in a natural way.

This approach and other viable techniques are now well developed and readily available to establish positive conditions for learning and race relations within most desegregated schools. In other words, we can say with some confidence that if a school does enroll a racially mixed student body, it can be made to run well for the major goals of basic skills learning and positive student relations that most parents desire.

I would like to now briefly draw some implications for future desegregation policies from these above results. In my view, the most important unanswered question is not whether student experiences in desegregated schools usually result in desirable outcomes: The research evidence is impressive that students who graduate from racially mixed schools often are better prepared for adult roles and will encounter fairer career opportunities and less segregation in their adult lives. Indeed, it is doubtful that many important beneficial outcomes of school desegregation experiences can be achieved through other policies such as improvement of school quality or elimination of overt discrimination. For example, school desegregation may be a uniquely necessary ingredient to open up fairer career opportunities, to penetrate barriers to adult neighborhood desegregation, and for students to develop skills at working successfully in multiracial settings. Moreover, we also have a good deal of practical knowledge about how to establish the best conditions in a desegregated school to obtain the desirable outcomes.

A more problematic issue is how to expand the opportunities for more students to pursue their education in a desegregated school, especially given the current demographic and political realities that find many black students concentrated in predominantly black city school districts and many white students concentrated in predominantly white suburban school districts.

As with most complex practical questions, we will probably need a variety of approaches and answers to be used in different localities to address the problems. In some localities, carefully constructed student reassignment programs can be effective, and I believe this option must remain, especially as a remedy for proven constitutional violations. In other localities, sensible programs for cross-district desegregation may effectively take advantage of student spaces that have become available in some suburban districts due to declining enrollments, or to take advantage of specialized instructional programs may be established to be shared by neighboring districts. Experienced educators could be expected to develop a wide variety of other worthwhile alternatives, but unfortunately, at this time, few cross-district alternatives for desegregation have been designed and evaluated. Because the difficulties of working across jurisdictions and funding limitations for new programs are partly to blame for this lack of practical experiments, new legislation would be very worthwhile to encourage and support progress in cross-district school desegregation.

In view of the potential benefits for students and for our Nation of further school desegregation, I believe we need more, not fewer, available approaches to meet the variety of circumstances in different localities. I also believe that, with an appropriate emphasis on how effective school desegregation is linked to goals of equal opportunities and community development, the public support of the principle of desegregation can be more effectively translated into a public acceptance of programs of desegregation in their own localities.

Thank you, Mr. Chairman.

Mr. EDWARDS. Thank you. That is very unique testimony, Dr. McPartland, and it is really going to be very valuable to us. We, in the State of California, should be becoming more sensitive to problems of school desegregation and its challenges because the projections for the next decade or two indicate that California will become nearly 50 percent Hispanic and perhaps 18 percent black. In the district that I come from, for example, we are receiving thousands of Vietnamese refugees and the children are less capable of handling the educational opportunities than earlier Vietnamese immigrants to California because they are from a more disadvantaged level of that society.

In the area that I represent, Hispanics still go to live in the traditional barrios of Santa Clara County and because of the family's agricultural work, they must move around the State. The result is that you have these schools where these State scores are an average of 6 to 7 out of the possible 100 achievement in reading and writing, arithmetic, and so forth; and 5, 6, 7, 10 miles away you have schools where children from more advantaged family background get 95, 96, 97 percent out of the possible 100 in the same test. So it is really very disturbing because these children, as they graduate, don't have the necessary skills to take advantage of the decent work that is available. The newspapers are full of advertisements for Silicon Valley employers who are dying for people to come and work for them and yet our schools aren't turning students out that can compete for these jobs. As a matter of fact, the magnet school is loaded with hardware, but there is no money to provide the necessary support for it and, as a result, the program is going to be closed down.

Your testimony points out that desegregation of these school systems is really terribly important to make a more equal society. Among other things, if we have a more equal society we will almost automatically lower the crime rate, wouldn't we?

Mr. McPARTLAND. I think that it is correct to view what we do today in our schools, including sensible programs of school desegregation, as truly an investment in the future. It is doubtful that some desirable future outcome, such as the breakdown of segregation of communities, will ever come about without making the investment today in our schools.

If I may also comment, Mr. Chairman, on the example from your home State of California, which shows the need to develop many desegregation alternatives to meet the needs of different localities. California often needs to develop triethnic desegregation which includes programs for non-English-speaking students. There are particular difficulties of combining desegregation and bilingual programs, because bilingual programs need a critical mass of students to support a teacher and create a class and desegregation often has the opposite effect of distributing different groups of students among the classes and reducing the critical mass of any given group in each class. I can report that people are working at and are coming up with viable ways of accomplishing both goals of triethnic desegregation and sensible programs for non-English-speaking students. In this sense, California provides a good example of a particular desegregation problem that needs a local solution, and sensible plans are now available for local consideration.

Mr. EDWARDS. I would like to see some public and other television attention to the subject, so that people can understand the long-term impact of desegregating our schools. I think it is very interesting to point out that one does get one's job and learns about employment opportunities and management opportunities through, traditional networks that we have in this country.

This is certainly true in other societies, such as England, where if you come from two or three colleges, you automatically are running the country after a number of years; to a certain extent we have that in the United States, too. I know that my university class after a few years practically ran the commercial establishment in California. It did not run it very well, because they got their jobs not through talent, but through family connections and fraternity membership and things like that. The women and minorities of California never got a shot at anything and so we lost the benefit of a lot of brains.

So your point is certainly well taken that these networks and arrangements, unwritten gentlemen's agreements that we have in our country, are not necessarily good in the long haul if they exclude capable people. I know we had it in the steel business because I knew a lot of people who worked their way up in the steel business and became presidents of these huge corporations without knowing very much about the steel business.

With those wise observations, I will yield to Miss Cooper.

Ms. **Cooper**. Thank you.

I would like to take a little historical tangent. The national policy on school desegregation originally had the rather narrow purpose of equalizing educational opportunity, but after a little more than a quarter of a century of experience we are now learning that this policy can also foster other societal goals, including residential desegregation, educational innovation. You have just described equalization of adult life opportunities. In the same vein, would you agree that the policy of educational segregation was supported not just for its impact on the classroom, but also, because it was perceived as crucial to sustaining a segregated unequal society?

Mr. **McPartland**. Whether it has been intentional is not always clear, but the effect of segregation on sustaining inequalities is becoming evident. Let me answer by an analogy to the situation of unequal pay for women. We saw about 1 month ago an important study from the National Academy of Sciences that tried to explain what are the sources of income differences between the sexes of the working population. Much of this report concentrates on segregation of different occupational roles as a way that has reinforced and, in fact, may very often been put into place to sustain income differences between men and women.

If most women are working clerical and secretarial office kinds of jobs and not in other types of work where men are employed in the same firm, there is no way of making the direct comparisons to establish equal pay across the sexes for jobs that are similar in skills and responsibilities.

So, what this report concluded is that segregation indeed was, even if not intended, an effective way to maintain unfair income differences, not in this case between races, but between men and women workers.

So I think, historically, whether it has been a conscious plan or has simply worked that way, segregation is a process through which the privileged manage to maintain their hold onto their status by avoiding fair competition and comparisons. I think that theme is well stated for the case of occupational inequality between men and women in the recent National Academy of Sciences report. I think we will be seeing more direct evidence both historical and contemporary on the theme you mentioned in the case of racial segregation.

Ms. **Cooper**. Well, speaking of women, you suggest that by merely desegregating public schools, minorities can break into this network of information about jobs and college opportunities. But, as you just pointed out, women at least for the last century, have not been segregated in school systems, but they have been left out of these networks. So why do you expect racial minorities to be able to break into these networks where women have not?

Mr. **McPartland**. I would answer in two ways. First, career channeling, the first process I talked about, earlier is really an occupational socialization process that makes either women think about a restricted range of female occupations or minorities think about a restricted range of traditional occupations. As a result, individuals self-segregate themselves, since they only think about a narrow channel of occupations. As a result, they do not even seek out the networks that might be available in a desegregated situation.

A second reason is that networks also involve sponsorship. It is not only knowing about an opportunity and having a contact to appear at the right time, but also having recommendations that make sense to the perspective employer. There still remain very strong racial sterotypes in many employers' minds. There is survey evidence to show that employers with no other information believe that blacks and other minorities would be less reliable and loyal employees, if not less talented prospective employees.

This stereotype has to be penetrated by minority candidates with some extra sponsorship and references. A minority needs to bring more outside credibility to his application than a white applicant. And the school that you came from is part of the way you get references and sponsorships.

Unfortunately, segregated schools are still stigmatized in the public mind as a location that provides poorer preparation. It is less likely that an employer would recognize or respect the references that come from a teacher or principal of a segregated minority school.

So you need think about networks in two additional ways. First, desegregated networks may be missed if occupational aspirations are narrow. Second, that networks often involve sponsorship and reference as well as information. I think segregation continues to limit occupational aspirations and to provide weaker references for students of a racial minority.

Ms. COOPER. Your research and your theory remind me of the rationale that was used in a Supreme Court case prior to the *Brown* decision; the Court held that with respect to a State law school, separate can never be equal because part of what it means to be well educated as a lawyer is making contacts and befriending people who will be your professional peers later on.

Mr. MCPARTLAND. You are accurate about this. This is not a new idea. It did precede the *Brown* decision in a desegregation case at the law school level. What is new is that we are beginning to get clearer evidence that this factor of social networks for job search and job promotion is one of the necessary elements in an accurate explanation of income differences.

So while this opinion was expressed earlier, now we are starting to get direct evidence that this indeed is an important factor.

Ms. Cooper. It also seems that it would take the pressure off trying to prove that one can get a better education in a desegregated school and stop the preoccupation with achievement test score results.

Mr. MCPARTLAND. Let me say it another way. In fact, there is a great variety of human talents that are needed and rewarded in society that go beyond grades and test scores. There is good research to show that if you hold constant the number of years of schooling an individual has completed, grades and test scores achieved in school do not correlate with most measures of adult success, such as a reputation for exceptional performance or income.

So there is something else that the typical adult role requires other than high academic achievement tests and grades. We do not really know what these other factors are, but they may include creativity, leadership, and the ability to establish positive interpersonal relationships.

We need to be clearer about this greater variety of human competencies that are needed in the world. At these hearings I think it is appropriate to enter as one of those competencies the ability to work in a multiracial world, or the ability to be successful as a member of a desegregated work group in the community. That kind of ability, it seems to me, can be uniquely developed during the school years in the desegregated setting.

Ms. COOPER. Is this tendency of students who have gone to desegregated schools to lead a more desegregated life true for whites as well as blacks?

Mr. MCPARTLAND. I cannot give you evidence on that. The fact of the matter is that there are so few adult whites that work and live in predominantly black situations that the comparisons are really between whites in a totally white situation from whites in a 75- to 99-percent white situations and the evidence really is not available on that as yet. The best related evidence we have concerns white attitudes about race. There are impressive results that white students in desegregated schools value interracial contact more highly, and have more positive racial attitudes.

These more positive racial attitudes can be viewed as a harbinger of what you might expect from white graduates of desegregated schools, but as yet we do not have direct evidence on white behavior in adult life.

Ms. COOPER. If I could ask you to speculate for a moment, it seems to me that your findings certainly accord with most people's experiences, basic commonsense, I guess. How you get your job and how you find out about what college to go to and how you get a promotion, have more to do with whom you know than how you did and that sort of thing.

Yet, parents seem to care more about test scores. Why do you suppose public attention has been so focused on the immediate impact within the classroom and test scores rather than long-term effects?

Mr. MCPARTLAND. I think it is a symptom of the simplicity in general with which we think about the problems of income differences and occupational inequalities. The typical public program that is proposed for these problems is one of two sorts. First, we should establish programs to eliminate overt discrimination, because there are some offenders who intentionally withhold opportunities when a qualified minority appears as a candidate.

Second, we should be upgrading schools to produce better skills, because minorities do not have the necessary qualifications as candidates for many positions.

I believe that even if you solve both of these problems you would still have the problem of minority individuals not appearing in the first place for opportunities. There are other exclusionary mechanisms besides educational inequalities and overt discrimination that we need to understand if we are to create equal opportunities in adult life.

So, I believe it is not only parents who fail to think about the exclusionary mechanisms that restrict adult opportunities. Our

Federal policymakers also have a very simplisitic model of the underlying causes of income differences.

Ms. COOPER. Of course, the system that exists now favors those who are in the network. It may not be that once this perception is shared that those in the privileged network will be willing to give up that special status.

Mr. MCPARTLAND. I am sure you are right. I use the term social inertia to describe the way existing attitudes and privileges stay in place without some kind of intervention during the school years. Even though educational gaps close, we do not see large changes of income inequalities, and even though economic resources may be more fairly distributed, we do not see sizable changes in adult neighborhood or occupational segregation. What is needed is some intervention or experience that will break the social inertia. There is growing evidence that the experience of attending school in a racially mixed environment is such an experience to give someone the momentum to penetrate the social inertia that often prevents progress on adult desegregation or equal occupational opportunities.

Ms. COOPER. Thank you.

Mr. EDWARDS. When it becomes evident to those who have been taking advantage of the networks that you describe that it is not in their long-term or even short-term best interest to not allow any break in the network at all as, to a certain extent that is the situation today, then perhaps things will begin to change, but I would think that they would look at the bars on windows that we see in practically all of our cities in urban America—a new phenomenon in lives of most Americans—and make the connection. It has to do with some people in our society feeling that they are not a part of it, and getting even or trying to become a part of our affluent society in an unsocial way.

So maybe the way we can start to move in that direction would be to first, of course, recognize that it exists and then to start to talk about it so hopefully people will start to understand it. I am sure you would have to be carried screaming and kicking into anything new like that because it does involve, in their view, a retreat.

Mr. MCPARTLAND. On the other hand, I think we can take many personnel officers at their own word when they say that they are bending over backward to create a more desegregated firm and work force but that they have great difficulty finding qualified minorities. What they really mean is that very few minority applicants ever appear at many firms, especially if the firm has a reputation or an image of being all white. The officials of these firms say they would like to make some progress toward hiring minorities but they ask: "What can we do? We put out ads and no one appears." I think we can take them at their word that they would welcome more effective networks for recruiting minorities.

Well-meaning personnel officers and corporate officers intend to do a better job at desegregating their organizations, but they have been unable to get many minority applicants. Creating effective networks of information and contact that are open to minorities is really what they are asking for, as I hear them. School desegregation can play a role for this purpose.

Mr. **Edwards**. Mr. Boyd.

Mr. **Boyd**. Thank you, Mr. Chairman.

I have no questions.

Mr. **Edwards**. Well, we thank you both very much.

Dr. Hawley, are you overcome with a desire to participate at this point? We would love to hear from you. Do you agree basically with what Dr. McPartland has been saying?

Mr. **Hawley**. Yes, sir, I do. Let me just add one thing in relation to the California experience. We have been focusing a great deal on the advantages for minorities of segregated settings. But in many States in the country people we now call minorities would be majorities in many communities and it behooves whites to begin to understand how to function effectively in situations where they are not in the majority and where people, in fact, whom they depend upon for their economic success, for their neighborhoods and for their schools whether public or private, are of different races and backgrounds.

The changing birth rates in this country and the greater longevity will mean that the work force of this country becomes increasingly nonwhite. It is important for the whites to be more an effective part of that work force and perhaps desegregation can contribute to that.

Mr. **Edwards**. Thank you very much.

If there are no further questions, we thank both the witnesses for their testimony.

[Whereupon, at 12 o'clock, the subcommittee adjourned subject to the call of the Chair.]

SCHOOL DESEGREGATION

THURSDAY, OCTOBER 29, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met at 9:30 a.m. in room 2141, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Hyde, and Sensenbrenner.

Staff present: Janice Cooper, assistant counsel; and Thomas Boyd, associate counsel.

Mr. **Edwards**. The subcommittee will come to order.

At today's hearing our inquiry will focus on the status of school desegregation in one area, New Castle County, Del., which includes the city of Wilmington and surrounding suburbs. That community presents an interesting case study; long and complicated legal battles, a history of a dual segregated school system, and the administrative nightmare of uniting 11 previously separate districts have rendered this a complex matter.

It is also a school system that has been well examined, and we are privileged today to hear the views of three gentlemen who, from very different perspectives, know what is going on. We are pleased to have you here.

The first member of the panel is Dr. Joseph Johnson, superintendent of the Red Clay Consolidated School District, which is one of the four districts in the newly reorganized New Castle County school system. The other two witnesses I will introduce a little later, but I believe that the plan is to have Dr. Joseph Johnson speak first.

In the meantime, without objection, all of the statements will be made a part of the record. Unless my colleague from Wisconsin desires to be recognized, we will move ahead.

Mr. **Sensenbrenner**. No, Mr. Chairman.

Mr. **Edwards**. It is nice to have you all here. You may go ahead.

TESTIMONY OF DR. JOSEPH E. JOHNSON, SUPERINTENDENT, RED CLAY CONSOLIDATED SCHOOL DISTRICT, WILMINGTON, DEL.

Dr. **Johnson**. Thank you, sir.

Mr. Chairman and distinguished members of the committee, I am Joseph E. Johnson, superintendent of the Red Clay Consolidated School District, located in New Castle County of the State of Delaware.

I am a product of Delaware's formerly segregated school system. My classmates were transported across district lines daily thoughout their secondary school life. I do not harbor bitterness from these experiences. However, I cannot deny that my desire to see constitutional violations remedied and the inequities in educational opportunities corrected has been shaped by my earlier experiences in the schools of Wilmington and New Castle County, Del.

On July 1, 1978, 10 suburban districts and the school district of the city of Wilmington, Del., were reorganized into a single desegregated school district. This interdistrict remedy created a school district with more than half of the State's public school population.

From the very beginning the new school district lacked popularity. Eleven school districts were terminated, causing many individuals to lose positions of high responsibility. Reorganization caused approximately 58 members of the community to lose elected positions as members of boards of education. The new district was considered to be too large.

Third, the court-ordered desegregation plan caused students to be transported from their suburban neighborhood to attend schools in the inner city environment. Most of the parents in the city were just as adamantly against the desegregation plan because their children were required to be transported from their local school for 9 of the 12 years.

I am not here today to articulate the merits of interdistrict desegregation plans. It is not my purpose to rate the popularity of busing in the State of Delaware. Those areas will be left for the comments of other individuals here from my community who have measured the climate and/or conducted polls using emotional, attitudinal, and political yardsticks.

Today I will attempt to assess the impact of the reorganization and desegregation of New Castle County schools as an educator who was directly involved on the inside of the new district's operation. As requested, I will give my assessment from an educator's point of view of the progress within the schools and comment on the decline of public school enrollment.

The reorganization of the New Castle County schools has been effective and has reduced the racial isolation of minority students. The process has not had a detectable adverse impact on the education of all of the students within the district. After 3 years, those schools whose performance scores where high prior to implementation continue to remain high. Those schools where students normally performed at lower levels continue to be the schools with lower averages. The scores, however, have improved in each of the 3 years.

From an educational point of view, the New Castle County School District reorganization and desegregation effort has been and continues to be a successful program. Despite the fact that the top administrative staff spent a great deal of time responding to legal and other noneducational concerns resulting from the unpopular court-ordered busing plan, the operation of the district continued at a high level.

School level administrators and professional staff put aside their political views on desegregation, reorganization, and forced busing, and worked together to help students progress in the classroom.

With few exceptions, teachers supported the instructional program. Educational growth is evident and learning is taking place.

Although the greatest support for the initial plan came from urban areas, there has been continuous and strong support from all segments of the community. There have been isolated moments of racial unrest, and on a few occasions direct confrontation between racial groups, but the district has not had the explosive problems that other large districts experienced when students from different racial groups came together in the same locations.

It is fair to say that a high degree of racial harmony exists in our schools. Students and staff are interacting and working together. One problem that must be overcome is the aspect of classroom discipline. Students from various family structures and communities have different perceptions of what is permissible. Their views of the importance of education are different, and this diversity increases friction between those with high expectations and those who come from families who have gained very little from the educational system.

A July 1, 1981, reorganization has divided the desegregation area into four smaller, autonomous school districts. The Red Clay Consolidated School District is one of those four districts. This change has already rekindled new support for the public schools and improved the chances for continued success of the instructional programs.

Looking at the overall performance, the New Castle County School District achievement test scores have risen during each of the 3 years of the reorganized school district's existence. Information recorded at the State department of public instruction reveals that the New Castle County students' test results were above the national average in each of the areas tested at all grade levels. They also performed equally as well, in some cases better than other Delaware students outside of the desegregation area.

The school district has maintained the programs that were available before the change to the new structure. Student needs are being served and the instructional programs remain competitive. The district has been in a financial dilemma and unable to raise the tax rate. The community heavily defeated a tax referendum. This district just began the fourth year without an increase in the general tax rate.

Student decline in enrollment is a problem throughout the school districts in this country. The birth rate is lower and young people are graduating or leaving to enter the work world. Some students just quit school, as they have for all of my years in education.

When desegregation arrives in a school district the term "white flight" is added to the picture. In New Castle County schools there has been a loss of student population because of flight. We cannot deny this fact. However, people are not abandoning public schools in massive numbers.

Observing the enrollment count, the trend has been toward a long-term decline in New Castle County schools. Projected losses were here before the apparent issuance of the court order. In the 1976 and 1977 school years enrollment decline, including all reasons, was 5.6 percent and 4.9 percent respectively. In the first year of desegregation, 1978, and in 1979, the student decline increased to

9 percent and then down to 8 percent. Last year, in 1980, the enrollment decline was back to 5.3 percent of the total population.

As reported earlier in its study, the New Castle County Research Department revealed that 491 students entered private schools during the period of 1978 to 1980 and returned to our classrooms, 491 returned. A continuation of the study indicates that an additional 283 students have returned up to the last day of school in June 1981.

An interesting fact to note is that the nonpublic schools in Delaware did not increase by numbers equal to the public school loss. The New Castle County public schools had an enrollment decline of 19,486 students or 23.5 percent but the nonpublic schools only increased by 3,962 students.

Looking at 1978, the first year of implementation, the county population declined by 6,227 students and the nonpublic schools of Delaware only increased by 1,237 students. Much of the decline can be attributed to birth rate, general school-leavers, and graduates. A National Center for Educational Statistics bulletin reports that opening fall membership in public elementary and secondary schools in the 50 States and the District of Columbia decreased by 3.3 million students between 1970 and 1978. Most of the decreasing States are not in school desegregation programs.

In my opinion, many parents decided to leave the school system at the beginning of the desegregation process not because of the lack of confidence in the educational system, an unwillingness to accept minority students in the schools, or the unwillingness to put their sons and daughters on a bus to attend schools away from the home area. Most of the students who left the public school systems are now being transported to schools far from their homes and are in classrooms that have minority students in attendance.

The greatest concern expressed by parents was the fear of the unknown, the possibility that there would be massive resistance and violence within the buildings. Parents were quite aware of the public reaction to desegregation plans in other large cities around the country. The feeling that their sons or daughters may be locked into a situation that may harm them or jeopardize their safety was not one that parents were willing to accept.

Now we should be able to move away from desegregation problems and concentrate fully on the task of educating students.

Mr. EDWARDS. Thank you very much, Dr. Johnson, for very helpful testimony.

Our second speaker will be Mr. William D'Onofrio, president of the National Association for Neighborhood Schools. We are pleased to have you and you may proceed.

TESTIMONY OF MR. WILLIAM D'ONOFRIO, PRESIDENT, NATIONAL ASSOCIATION FOR NEIGHBORHOOD SCHOOLS, WILMINGTON, DEL.

Mr. D'ONOFRIO. Thank you, Mr. Chairman and members of the subcommittee.

This past June the Federal judge under whose final order forced busing began in New Castle County, Del., gathered the school officials and attorneys involved into his chambers. The judge told the group they had to regain public trust in the schools or face the probability that increasing numbers of parents would remove their children from the public schools.

Said the judge, and I quote, "If you do not have public support for your public school system, in the end you will have nothing. You will have children in the public school system who cannot afford to flee. That is what you will be left with," this going into the fourth year of forced busing.

During the 4 years 1971 through 1974, before the threat of forced busing enveloped New Castle County, what was to become the so-called desegregation area of 1978 lost a total of only 6.5 percent of its white enrollment or about 4,500 students. In 1975 parents became aware of the city-suburbs intentions of the Federal court. During 3 years of what sociologist David Armor would describe as anticipatory white flight, 1975 through 1977, and 3 years of actual racial balance busing, 1978 through 1980, white enrollment in the involved schools declined by 40 percent, dropping from 64,679 in 1974 to 38,980 in 1980.

I would like to call your attention to an exhibit I just introduced this morning. It is an article from the Wilmington newspaper dated February 1978 and it is in regard to preimplementation or anticipatory white flight.

Mr. EDWARDS. Without objection, it will be made a part of the record.

Mr. D'ONOFRIO. All right.

[See app. 5 at p. 806.]

Mr. D'ONOFRIO. As I say, this document so to speak, deals with the existence of the phenomenon of anticipatory white flight.

After white declines of 11.3 and 10 percent respectively in the first 2 years of implementation, 1978 through 1979, officials claimed white flight had abated in 1980 when white loss was only 7.8 percent. However, even at that, white decline in the two most affluent of the four attendance areas remained steady at 10 percent.

Now at the start of the fourth year of busing, preliminary figures indicate a further white loss of 9 percent. That gets us down to some 35,000 white students, a loss of nearly 30,000 over 7 years of turmoil. This is compared to a loss of only 4,500 over 4 years, 1971 through 1974.

At the start of the current school year, 45 percent of the remaining students have been reassigned under coercion from the court and due to school closings brought about by white flight, to reachieve racial balance. Schools neatly racially balanced at around 20 percent black in 1978 became, without any semblance of further so-called constitutional violations, imbalanced. Some became 50 percent black, this over 3 years. Of 103 schools in operation in 1977, the year before forced busing began, only 68 remain in operation.

All of this has taken place under an ambitious city-suburbs remedy, the proponents of which theorize will inhibit white flight.

Some attribute much of this massive white loss to birth rate decline and other nondesegregation factors. Initial 1980 census data, not broken down by age group, indicated that the white population of New Castle County declined by only 1.1 percent in 10 years. Shortly I will be able to further address this aspect as 1980 census data by race and school age population will be available for comparison with 1970 data. I believe the comparison will counter those who minimize the amount of white flight.

Now with regard to birth rate decline, I call your attention to another exhibit I added this morning, taken from a News-Journal article in 1979 which analyzed the enrollment loss in 1978, as busing began, and only 25 percent of the over 6,000 in enrollment loss was attributed to birth rate decline; 29 percent to an increase in private school enrollment; and 46 percent was unaccounted for.

How is that so? New Castle County is a highly transient area. It sticks up like a finger between three neighboring States and its center is only minutes away from those States. There have been indications from realtors and major corporations that people transferring into Delaware are opting to settle their families in nearby States in order to avoid forced busing, and commute to work. Of course, because of the closeness of some of the largest districts to the neighboring States, many students enroll in schools in those States and those are not measured in Delaware's private school enrollment statistics.

Meanwhile, birth rate decline or not, white nonpublic school enrollment in Delaware's private schools among children residing in the nine majority white former suburban districts has increased 47 percent just from 1975 through 1980. The county's growth area, comprising the former Newark School District—which was the State's largest and was the most viable in terms of increasing white public school enrollment prior to the start of busing, has seen white nonpublic school enrollment increase 180 percent or nearly triple, 1975 through 1980.

Now why have all these whites left the public schools? The University of Delaware's College of Urban Affairs and Public Policy, polling area parents, discounted the "steam kettle" theory in which large numbers of supposedly racist parents remove their children at the start with a busing order. Instead, the Urban Affairs pollsters found that in the eyes of many suburbanites busing has meant a leveling down of educational quality. Indeed, the essence of forced busing is perceived to be an equalizing of educational opportunity by lowering standards, a system of education by the lowest common denominator.

The pollsters found dramatic decreases in the levels of parental participation in the educational process, for example, those helping with homework often, serving as volunteers in the schools, et cetera. They found that poor curriculum, lack of discipline in a racial balance busing situation, their children's safety, and their children not being challenged academically were the major reasons for white withdrawal.

They concluded ominously that those parents who have withdrawn their children are the most concerned about their children's education and comprise those who were most likely to provide leadership for the public schools. In other words, large numbers of those parent leaders are gone.

On the other hand, test results released by school officials indicate that such scores, which have not been publicly broken down by race, have increased for the third year in a row. Let's look at those results with, if you will, a rather baleful eye.

Let me give you an example: Prior to the start of forced busing, Greenville Elementary School served one of the most affluent suburban areas in the Nation, and the small and rather elite school district of which it was a part annually ranked around 1-2 in statewide achievement. The district showed a good enrollment increase from 1970 through 1974 and has since lost half of its white enrollment. In 1980 the school's racial makeup was around 60 percent white, with a number of whites bused to Greenville from other former districts; 19 percent mostly inner-city black; and 13 percent Hispanic, virtually all inner city.

One would have to assume that the cream of student achievers, or at least a huge portion thereof, had departed from Greenville and that this would negatively affect overall test scores, yet 1980 fourth graders at the school, all races included, are reported to have scored better than 92 percent of fourth graders nationally, up from 74 percent in 1979. If you will pardon me, these figures seem rather spurious.

Meanwhile, just this month a study of the first two years of busing in New Castle County by a research team from Michigan State University has been released. The study uses the released test scores from 5 of the 11 former districts, while breaking them down by race and comparing with prebusing scores.

The study reports that black elementary students have gained a half year in achievement over 2 years of busing while whites have gained a year and a half, or three times more than blacks. If true, the already wide achievement gap between whites and blacks has increased, and this is a rather curious success story.

Candid observers should look at these announced test results and question the difficulty of the tests and their administration. Concerned teachers have confided to me and others who report back to me that the practice of "teaching to the test" has been carried to extremes in some cases. This might partially explain the increases. A better explanation might be the switch after the start of busing to exclusive use of the California achievement test—CAT—which some educators regard as easier to pass.

The Michigan State study also revealed a worsening of racial attitudes among students after busing, particularly among white students. This month a report by the CBS-TV affiliate in Philadelphia confirmed these findings.

With regard to discipline, suburban parents appear generally convinced that school officials are unwilling and unable, given both imposed and self-imposed restraints or sensitivity, to control disruptive elements in the schools. At one high school closed down for a week in 1980 due to racial strife in the third year of busing, both black and white students complained that administrators are afraid to discipline unruly blacks.

There have been other apparent manifestations of citizens outrage and disgust with the schools and the Government. After 3 years of a court-ordered appointed school board, citizens were allowed in late 1980 and earlier this year to vote in school board elections. In the most recent election this year involving three or four attendance areas, only 2,600 of 200,000 registered voters, a little more than 1 percent, bothered to vote. It was a different story last fall when voters had their first chance since the start of forced busing to vote on a proposed school tax increase. With many voters standing in long lines at the polls for up to 2 hours or more, the referendum was crushed by 47,500 to 4,800, a margin of 10 to 1.

In closing, there are other important underlying reasons for citizens attitudes in New Castle County, and they have to do with an unacceptable definition of terms and a refusal to accept a massive guilt that the courts, the policymakers, and the media have attempted to force upon them.

First, the term "desegregation": Subsequent court opinions to the contrary, suburban New Castle County schools were desegregated in 1956 after *Brown II* and those in Wilmington in 1956 through 1958. In 1967, the Department of the Health, Education, and Welfare—reacting to the civil rights movements of the fifties and sixties, the HEW of the Great Society—in enforcing the 1964 Civil Rights Act singled out the State of Delaware for praise as being "the first border State to remove all vestiges of a dual school system." That was in 1967.

A 1968 school district reorganization act in the State legislature paraded as a constitutional violation was actually found by the court to have not been passed with discriminatory purpose. The same court, in ordering massive busing, admitted to finding that the districts were "unitary in themselves."

All this being the case, the courts eliminated 11 school districts and ordered racial balance busing to each school in an area comprising two-thirds of the public school students in the entire State of Delaware. Parents of today's school-age children, who themselves attended desegregated schools for most of their lives and whose older children did likewise for all of their lives, do not equate racial balance busing and judicial gibberish with so-called desegregation.

I might add that my wife, who is somewhat younger than I am, was a member of Wilmington High School's first desegregated graduating class in 1958. We have four children, ages 17 through 22, and they attended desegregated schools in New Castle County all of their lives.

Then there is the alleged denial of equal educational opportunity. Prior to the start of busing, per pupil spending in the majority black Wilmington district was 47 percent higher than the average of the majority white suburban districts and the highest in the State. Wilmington had the highest paid teachers and administrators; the most favorable teacher- and administrator-to-pupil ratios; a tax rate set by a benevolent city council and not subject to nasty referenda; and a per-pupil real estate assessment ranking 13th among the 26 existing districts.

With some 13 percent of the prebusing statewide enrollment, Wilmington received some 53 percent of the Federal school aid funding flowing into the State. As to quality of plant, when busing began in 1978, 14 schools were closed in the suburbs and none in the city. It was a rude awakening for suburbanites in 1978 when their school taxes were increased by an average of 50 percent to level up the entire county to the spending of the "constitutionally violated" Wilmington district.

I would like to request that my full written remarks and appendices be entered into the record. That concludes my testimony.

Mr. **Edwards**. Without objection, all will be included in the hearing record. We thank you, Mr. D'Onofrio.

Our last witness today and the third panelist is Dr. Jeffrey Raffel. Dr. Raffel is associate professor at the College of Urban Affairs and public policy of the University of Delaware.

Dr. Raffel, you may proceed.

TESTIMONY OF DR. JEFFREY RAFFEL, ASSOCIATE PROFESSOR, COLLEGE OF URBAN AFFAIRS AND PUBLIC POLICY, UNIVERSITY OF DELAWARE

Dr. **Raffel**. Thank you, Mr. Chairman, members of the committee. I want to thank you for this invitation to present testimony today, for a number of reasons.

As a researcher who has studied the school desegregation implementation process in Delaware, I am pleased to be able to share my findings with you today.

As a father of three children who are attending the public schools of New Castle County, including one who is being bused into Wilmington, I am pleased that you are going to hear from a public school parent.

As a participant in the school desegregation implementation process when I served as staff director to a committee established by the Governor, the mayor of Wilmington, and the county executor of New Castle County—the committee was set up to try to work toward quality schools whatever the court decided—as a former participant, then, I am pleased to be able to talk about the results of my effort and the effort of others. Finally, as an author of a book analyzing the school desegregation process and early results, I am just delighted to speak to a number of potential buyers.

There are a number of points I would like to make, and they focus in on the results of a poll that my colleague, Dr. Barry Morstain, and I conducted in the spring of 1979. This was with the support of the Delaware Post Secondary Education Commission with title 1 community service funds.

The report was entitled "One Year Later: Parent Views Toward Schools in New Castle County After the First Year of Desegregation." This was a followup to two prior polls we had done in 1977 and 1978 before busing began. I would like to ask you if this report could be printed in full in the record of this hearing because I believe it will present you with a variety of information.

Mr. **Edwards**. Without objection, it will be made a part of the record.

[Material to be supplied follows:]

ONE YEAR LATER: PARENT VIEWS TOWARD SCHOOLS IN NEW CASTLE COUNTY AFTER THE FIRST YEAR OF DESEGREGATION

(By Jeffrey A. Raffel)

Preface

This report summarizes the results of three polls measuring parent attitudes toward school desegregation and the schools of New Castle County. It focuses on preliminary results from the 1979 poll, conducted at the conclusion of the first year of school desegregation in New Castle County. Further analysis of all three polls is planned.

The polls were funded by a Title I grant from the Delaware Postsecondary Education Commission. The project has been directed by Jeffrey A. Raffel and Barry R. Morstain.

The very able assistance of Phyllis Raab, Ed Ratledge, Von Holland, Lola Hoffman, Eunice Clark, Judith Molloy, and all the staff of the College of Urban Affairs and Public Policy's Census and Data System has made this report possible. The hard work of the many interviewers and the assistance of the personnel of the Research Division of the New Castle County School District is greatly appreciated. Finally, Diane Monteith offered valuable suggestions in the development of the survey instrument, Janice Wilkins spent many hours constructing the figures, Florence Torri did her usual excellent job of typing the report, and Mary Helen Callahan edited this report, turning jargon into readable prose. I thank them all.

Jeffrey A. Raffel

ONE YEAR LATER: PARENT VIEWS TOWARD SCHOOLS IN NEW CASTLE COUNTY AFTER THE FIRST YEAR OF DESEGREGATION

Executive Summary

The College of Urban Affairs and Public Policy polled 839 New Castle County parents at the conclusion of the 1978-79 school year. The sample included 315 suburban parents who had at least one child in the county public schools and who were interviewed in 1977 or 1978, 200 city public school parents, 90 suburban parents interviewed in prior years who did not have a child in the public schools in 1979, 103 parents who withdrew a child from the public schools during the summer of 1978 before school desegregation began, and 131 who withdrew a child during the first school year of court-ordered desegregation.

The results of the initial analysis may be summarized as follows:

(1) Evaluation of Schools and the School District

School district ratings by suburban parents have dropped markedly since desegregation began; the percentage of suburban parents rating the public schools in their district as "good" or "excellent" was almost 80 percent in 1977 and 1978, but only 37 percent in 1979. Ratings by city parents remained relatively constant; about half rated their district as "good" or "excellent" in all three years.

School ratings are higher than school district ratings; over 60 percent of city and suburban parents rate their child's schools as "good" or "excellent." Nonpublic school parents are almost unanimous in rating their child's school as "good" or "excellent."

Satisfaction with one's child's teacher and happiness at school is widespread; over two-thirds of all public school parents are satisfied with each.

Generally, the closer public school parents are to the object or situation they are asked to evaluate, the higher their evaluation: Thus, parents tend to rate their child's teacher positively, while viewing the district less favorably; parents active in the schools are more positive than those less active in school affairs.

(2) Equality of Educational Quality

Perception of equality of educational quality in the public schools in the city and suburbs has increased greatly; the percentage viewing the city schools as at least equal to the suburban schools has doubled since 1977 (up from 20 to 40 percent in the suburbs and 34 to 68 percent in the city).

(3) Attitudes Toward Busing

The start of busing went well, all things considered, according to the county's parents, and few now think that "if enough people show they are against it, busing can be stopped." (In the suburbs the percentage agreeing with this statement has decreased from 60 percent in 1977, to 37 percent in 1978, to 19 percent in 1979.)

Support for busing remains almost nonexistent in the suburbs, where about 9 of 10 people still oppose it. Busing remains a divisive issue among city parents, about half of whom oppose this policy.

A decrease in the achievement of white students has occurred according to a majority (57 percent) of suburban parents.

Overall, acceptance and tolerance but not support for busing exists in New Castle County.

(4) Effects of Desegregation

Parent participation in a variety of school related activities (e.g., classroom visits, meeting attendance) has declined substantially among city parents and to a smaller extent among suburban parents.

Knowledge of desegregation in the public schools has not increased among public school parents, but nonpublic school parents do show an increase in knowledge. There remains a great deal of misinformation concerning the financial impact of desegregation.

Racial attitudes as measured by the poll have not changed since desegregation began; at this point neither increased antagonism nor a reduction in racial conflict has resulted.

(5) Flight

Black flight from the public schools is essentially nonexistent; white flight is very evident.

Racial attitudes do not differentiate between those who have removed their children from the public schools and those who have not; those whites who have withdrawn children are no more prejudiced than those who have left their children in public schools.

Income and education are related to flight; those with higher incomes are more likely to have removed or to be considering removing their children from the public schools; 77 percent of those who withdrew their children reported family incomes over $20,000 per year, while 64 percent of those who left their children in public schools had similar incomes.

Experience at one's child's school seems to affect withdrawal action; only one-third of those who withdrew their child from a public school during the school year rated the school as "good" or "excellent," (half the rate of the other public school parents). Those who withdrew children during the summer before busing began were more likely to give broad anti-busing-related reasons; those who withdrew their children during the school year cited more specific educational quality reasons.

Future switching between the public and nonpublic schools will be fairly high; a two-tiered system of education, a public and nonpublic system serving different clientele, has not developed in New Castle County. For example, about 15 percent of nonpublic school parents can conceive of circumstances in which they would switch a child to the public school system, and a majority of public school parents have contemplated the opposite action.

A lack of recognition of the number of parents considering nonpublic to public school switching is evident; while a majority of suburban parents know parents switching children from a public to nonpublic school, few report knowing people doing the reverse, despite similar rates.

(6) Support for Policy Changes

Stricter discipline, an elected school board, and special programs (e.g., for the gifted and for those requiring remedial reading) are supported by over 80 percent of suburban parents, although a smaller percentage of city parents support the first two alternatives.

Increased ability grouping is very popular in the city and suburbs; those who have withdrawn their children during the school year, however, are its greatest supporters.

Providing more funds for the public schools is favored by a large majority of city parents (68 percent), a slight majority of suburban parents (54 percent), and over a third of withdrawal parents; few support closing more schools.

Reorganizing of the county school district into four smaller districts is supported by a bare majority of suburban parents and less than a quarter of city parents.

A choice of schools, such as the opportunity to send a child to a Basics Plus school or school for the gifted, is favored by more than two-thirds of all groups.

Introduction

In July 1978 the Wilmington School District was merged with ten suburban school districts to form the New Castle County School District. The merger had been ordered by the federal district court. In September 1978 the nearly 100 schools of the new district were desegregated. To accomplish this, over 20,000 of the district's 65,000 pupils were bused across the old city-suburban school district lines.

The desegregation process in New Castle County, a long and difficult one, has been described in detail elsewhere.[1] This report focuses on parent attitudes measured on a survey conducted as the first year of school desegregation drew to a close. This survey, the third assessing attitudes toward public education and school desegregation in New Castle County, was conducted from May 11 to July 26, 1979. The first was conducted in the spring of 1977 and the second in the winter of 1978; the results of these surveys have been reported in College of Urban Affairs and Public Policy reports and in articles in the *News Journal* papers.[1]

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[1] Jeffrey A. Raffel, The Politics of School Desegregation: Metropolitan Remedy in Delaware (Philadelphia: Temple University Press, expected March 1980) and Jeffrey A. Raffel and Barry R. Morstain, "School Desegregation in the Wilmington Metropolitan Area: The Dynamics of Power and Ideology in the Educational Arena," College of Urban Affairs and Public Policy, August 1978; to be published as a chapter in a volume edited by Charles W. Willie and Susan Greenblatt, Longman Press, expected 1980.

The 1979 survey had two major objectives: (1) to compare public opinion about the county's schools at the conclusion of the first year of school desegregation with pre-desegregation opinion, and (2) to compare the characteristics and attitudes of those who transferred their children from public to nonpublic schools with the characteristics and attitudes of those parents who did not transfer their children. In short the objectives were to determine whether and how the experience of desegregation changed opinions and why flight was occurring.

Methodological Notes.

The selection of a sample was dictated by these two objectives. To examine changes in opinion over time, we attempted to interview all of the respondents in the 1977 and 1978 suburban and city samples. Unfortunately, during the pretesting it became clear that it was not feasible to reinterview those in the previous city samples because of operational problems due primarily to residential mobility. A new sample of city parents with children in the county public schools was drawn, and 200 city parents were personally interviewed. We were able to reinterview by telephone 203 suburban public and nonpublic school parents from the 1977 survey and 202 from the 1978 poll. We then divided the 405 suburban respondents into two groups, those who had at least one child in public school in New Castle County (N=315) and those who had no child in the county public schools (N=90). The 405 respondents represent over half of those suburbanites interviewed in the previous years.[1]

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[1] See Barry R. Morstain, "Parent Views on School Desegregation and Related Educational Issues," College of Urban Affairs and Public Policy, March 1978, John Felton and Larry Hagengast, "Busing and You," *Morning News*, 15-19 May 1977, and Marlene Z. Bloom, "Parents Admit Buses Will Roll," *Sunday News Journal*, 23 April 1978, pp. A1, A10, and *Sunday News Journal*, 30 April 1978.

To examine the opinions of those who had withdrawn their children from the public schools, we interviewed by telephone 103 parents who withdrew their children during the summer of 1978, i.e., before school desegregation began, and 131 who withdrew their children during the 1978-79 school year, i.e., during the first year of school desegregation. These parents were selected randomly from lists of all of those in the appropriate categories. We thus had samples not only to allow public-nonpublic school comparisons, but also to compare the attitudes of those whose children were never in public schools or were withdrawn in the desegregation planning process with the attitudes of those who withdrew their children right before and after desegregation began.

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[1] Slightly more than 50 percent of those in each of the samples were actually interviewed. Some parents refused to be interviewed, claiming they were "too busy" or "not interested." The refusal rate was 15 percent in the 1977 and 1978 suburban samples, under 2 percent in the city sample, and 5 percent in the withdrawal samples. The higher refusal rate in the suburban samples reflects the potential respondents' knowledge of the length of the poll (20 to 40 minutes). Many parents could not be reached because they had moved or were not at home during repeated visits or telephone calls by our interviewers. Finally, some in the samples were not interviewed because they no longer had children in any elementary or secondary school.

Given the manner in which these samples were chosen, the total sample (N=839) is not representative of any larger population (Figure 1). Instead, one can view these data from a five sample or two sample perspective. That is, if the city and suburban public school parental samples were weighted, they would form a sample representative of all public school parents in the county. (The weighting procedure would be necessary to readjust for our oversampling of city parents. While about 40 percent of the public school parents in the sample are from the city, only about 25 percent of the public school parents in the county live in the city.) The three nonpublic school samples could be weighted to form a representative suburban nonpublic school sample. (City parents with children in nonpublic schools were not interviewed, though they represent about 20 percent of the county's nonpublic school parents. Financial constraints and the lack of a list of these parents prevented their inclusion.) In this report, however, cumbersome weighting procedures were avoided, and results from the five samples are reported separately.[1]

The magnitude of sampling error is ± 10 percent at the 95 percent confidence interval for a sample of 100. This magnitude of error means that if 61 percent

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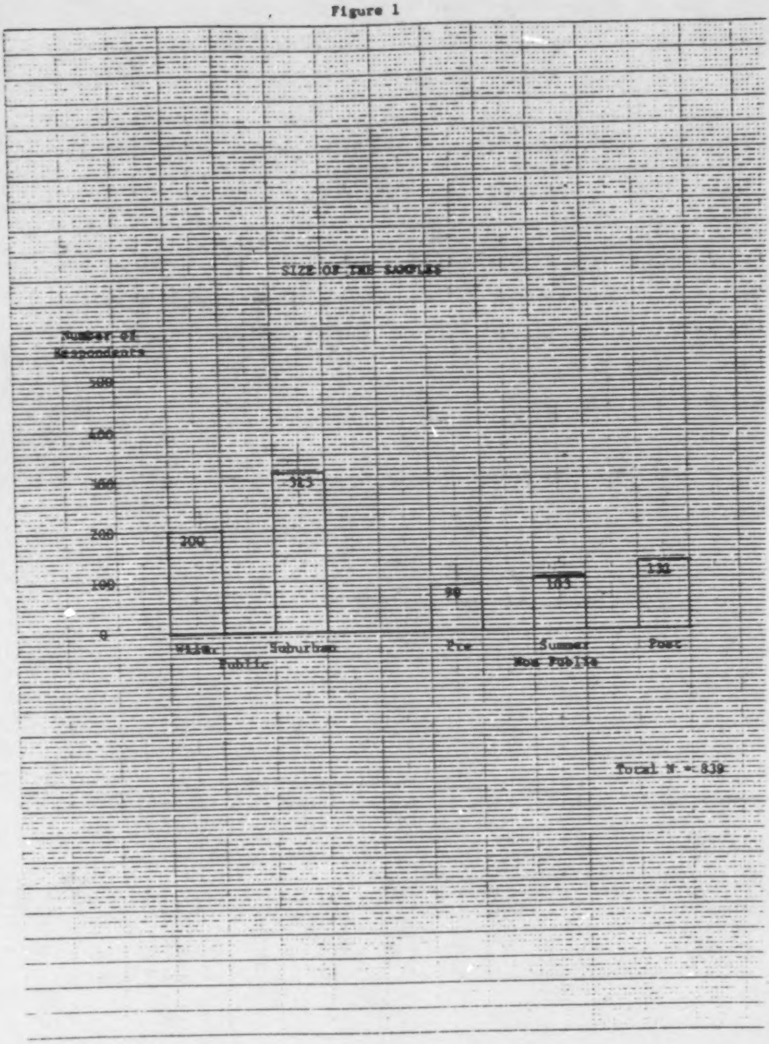
[1] It should be noted that the samples are not totally distinct. For example, nine percent of the suburban public school parents have at least one child in nonpublic school and 37 percent of the withdrawal parents have at least one child in public school. Furthermore, four percent of the withdrawal parents described the experiences of a child remaining in public school, rather than the experiences of the child who withdrew. (This occurred because of interview error, problems in identifying the withdrawn child, and respondent refusal to discuss a particular child.)

Figure 1


SIZE OF THE SAMPLES
Number of Respondents
500
400
300
200
100
0
200
313
90
103
132
Urban
Suburban
Public
Pre
Summer
Post
Non Public
Total N = 839

of the summer withdrawals responded "yes" to a particular question, the likely range of yes responses if all summer withdrawal parents had been interviewed would have been 61 ± 10 percent, or 51 to 71 percent. For a sample level of 200 (approximately that of the city public school parent sample or of the total of the withdrawal samples) the sampling error is ± 8 percent. The public school sample (N=315) has a sampling error range of less than ± 7 percent. Of course, these confidence intervals reflect only sampling error, not possible "errors" in the wording of questions, the interpretation of results, or other similar problems.

The 1979 poll results are discussed and compared with the results of the two previous polls. In the figures the five samples are referred to as follows:

Suburban - suburban parents who had at least one child in a public school in 1978-79.

Wilmington - Wilmington parents who had at least one child in a public school in 1978-79.

Pre - suburban nonpublic school parents, the vast majority of whom either never had a child in a public school or withdrew all their children from the public schools prior to the summer of 1978.

Summer - parents who withdrew at least one child from a public school during the summer of 1978.

Post - parents who withdrew at least one child from a public school during the 1978-79 school year.

It should also be noted that one child of each public school respondent was selected randomly during the interview process to allow a detailed assessment of school-based experiences. Respondents in the two withdrawal samples were asked (although not always successfully) about the child withdrawn from the public schools. The remaining private and parochial school parents were interviewed about a randomly selected child.

Evaluation of Schools and the School District

While some components of public opinion reported below may be ambiguous or unclear, one fact seems quite evident. Desegregation and reorganization have brought a large drop in the percentage of suburban parents who rate their school district highly. While in the 1979 poll 37 percent of suburban public school parents rated the county school district as "good" or "excellent" (as opposed to "fair" or "poor"), in both 1977 and 1978 almost 80 percent rated their suburban district at this level (Figure 2).[1] Similarly, the percentage of suburban, private, and parochial school parents rating "their" district highly has also been reduced more than half since reorganization began and desegregation took place. Only Wilmington parents have maintained their ratings.

A majority of both city and suburban public school parents, however, rate their child's school highly (Figure 3). Sixty-three percent of the Wilmington parents and 61 percent of the suburban parents rate their child's schools as "good" or "excellent." Thus more in both groups rate their child's school highly than the percentage of either group giving the county district a high rating. Nonpublic school parents are nearly unanimous in their positive rating for their child's school; over 90 percent in each group rate the school as

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[1] Gallup Polls about education have also indicated a decline, although not as dramatic a one, in the public's ratings of the schools. For example, in 1974 48 percent of the national sample gave the public schools in their community an "A" or "B" rating. In 1977 only 37 percent did this. Those with children in public schools tend to rate the schools more positively. In 1977 54 percent gave the public schools an "A" or a "B". This percentage falls between the school and school district ratings of New Castle County parents. See: George H. Gallup, "Ninth Annual Gallup Poll of the Public's Attitudes Toward the Public Schools," Phi Delta Kappan, Vol. 59, No. 1. (September 1977), pp. 33-48.

Figure 2

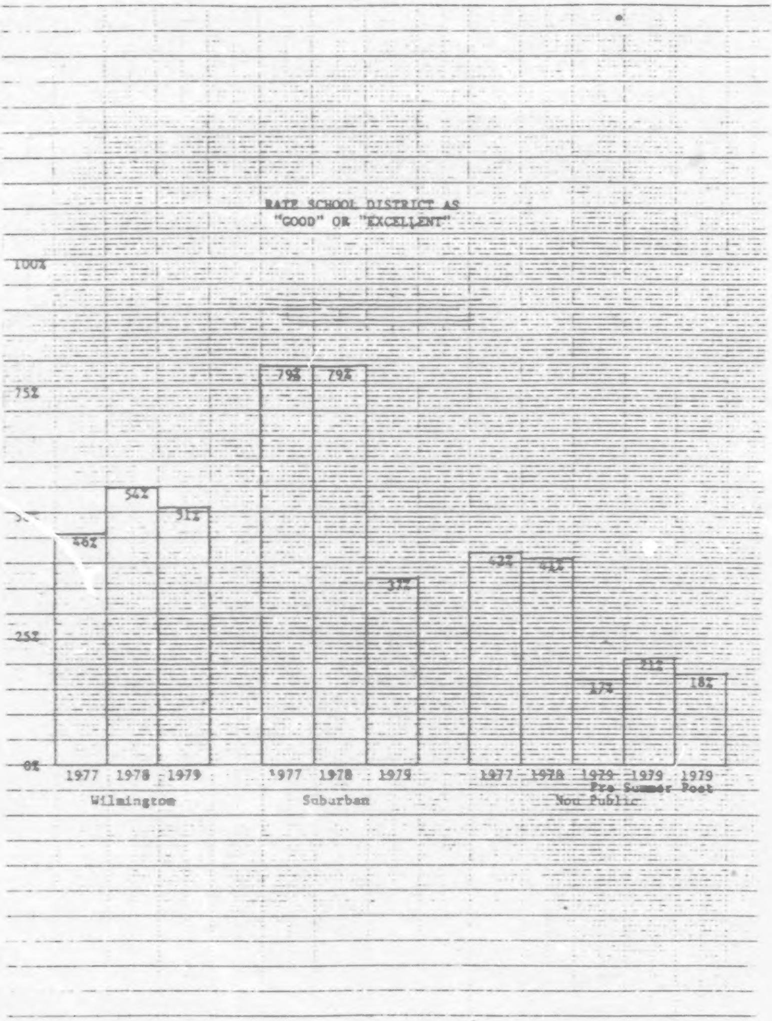
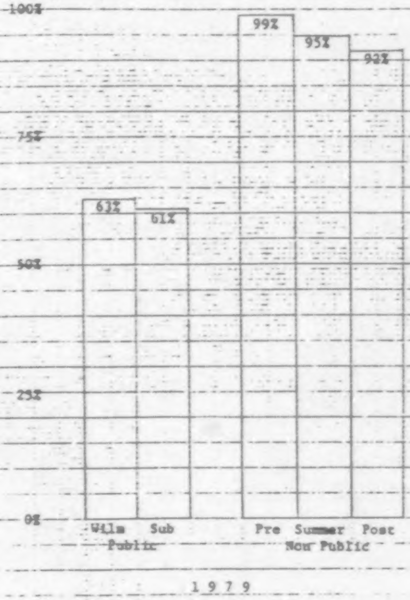

RATE SCHOOL DISTRICT AS
"GOOD" OR "EXCELLENT"
100%
75%
50%
25%
0%
46%
54%
51%
79%
79%
37%
42%
41%
17%
21%
18%
1977
1978
1979
Wilmington
1977
1978
1979
Suburban
1977
1978
1979
Pre
1979
Summer
1979
Post
Non Public

Figure 3

RATE THIS YEAR'S CHILD'S SCHOOL AS "GOOD" OR "EXCELLENT"



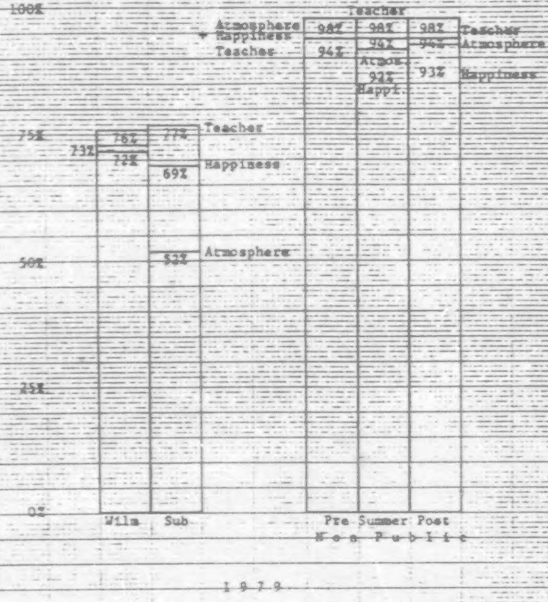
"good" or "excellent."

Over 70 percent of the Wilmington parents are "satisfied" with their child's happiness in school, teacher, and school's atmosphere (Figure 4). Again, nonpublic school parents are almost all "satisfied" with these school characteristics. Suburban public school parents differentiate among these. Seventy-seven percent are satisfied with their child's teacher and 69 percent with their child's happiness but only 52 percent with the school's atmosphere. Thus, while nonpublic school parents exhibit dissatisfaction with the public schools and satisfaction with the school their children attend, the feelings of public school parents depend on the "proximity" to what is being rated. Suburban public school parents are least likely to give good marks to the county district, but more likely to rate the individual school and its atmosphere highly, and most likely to be satisfied with their child's happiness in school and his or her teacher. As a further example, more suburban parents are much more satisfied with their child's teacher (77 percent) than with other teachers in the school (56 percent). While city parents differentiate less at the school level, they do exhibit the same feelings.

"Proximity" considerations would also suggest that parents who were more active in the public school, and therefore more familiar with it, would rate it more highly. General measures of a parent's participation in school affairs (e.g., attendance at Parent-Teacher Association, Citizen's Advisory Council, or Home and School Association meetings, visits to classrooms) indicated that in both the city and suburbs the more a public school parent reported being involved in his or her child's school, the higher he or she rated the school, its atmosphere, and the child's happiness. For example, while 71 percent of the suburban parents who reported attending parent group meetings "often" rated

Figure 4

"SATISFIED" WITH CHILD'S TEACHER,
SCHOOL ATMOSPHERE, CHILD'S HAPPINESS



their child's school as "good" or "excellent," only 56 percent of the non-attenders rated their school as highly.[1] Of course, while it is possible that activity breeds knowledge and knowledge brings confidence, it is also possible that confidence encourages participation.

In the suburbs, whether one's child was bused or not was related to a variety of evaluations. Parents whose child was bused for desegregation (N=75) were less likely than those whose child was not bused (N=240) to rate their child's school as "good" or "excellent" (45 vs. 66 percent), and less likely to be satisfied with their child's teacher (67 vs. 80 percent), school's atmosphere (44 vs. 55 percent), and happiness in school (61 vs. 71 percent). They were also less likely to rate the county's public schools as "good" or "excellent" (28 vs. 40 percent). Thus, busing per se does seem to have had some impact on parent evaluations. (Because of the complexity of the pupil assignment plan among city children, the evaluations of city parents of bused children will be analyzed in the future.)

The large dropoff in school district ratings among suburban public school parents may represent an exaggerated perception of the actual effects of desegregation and reorganization. Among suburban public school parents, the decrease in the percentage of those satisfied with their child's school, teacher, school atmosphere, and happiness declined a maximum of 29 percent from 1978 to 1979 (Figure 5). This decline was far less than the 42 percent decline in those satisfied with the school district. The school rating decline was only 14

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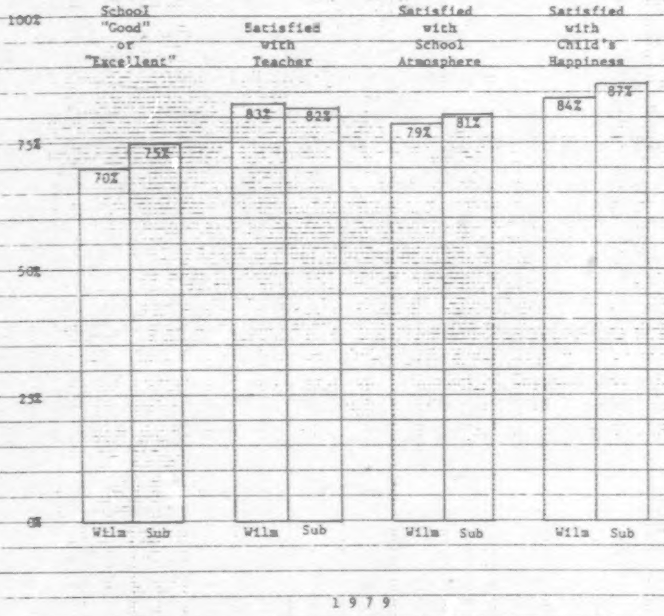
[1] This may explain why a College of Education research team reported relatively positive evaluations of the schools, for they interviewed CAC parent leaders and school personnel. Less active parents were not interviewed. See: Billy E. Ross, "Project Confidence: Final Report," College of Education, University of Delaware, July 1979.

Figure 5

PUBLIC PARENTS' RATINGS OF LAST YEAR'S SCHOOL*



*These questions were asked retrospectively of 1979 respondents.

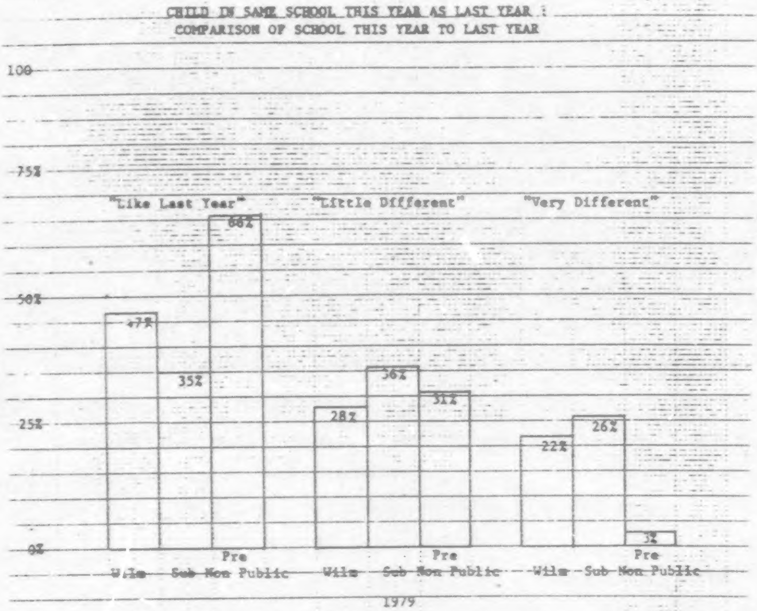
percent. Furthermore, only about a quarter of city or suburban parents whose children did not switch schools thought that their school was "very different" from last year, and a number of these in both the city and the suburbs saw differences in positive terms (Figure 6). It is thus likely that part of the lower rating for the school district was the result of general symbolic feelings about busing and reorganization rather than of specific experiences with one's child's education or at one's child's school.

Equality of Educational Quality

The goal of desegregation has been stated by the courts as transforming "white schools" and "black schools" into just "schools." Results from the 1979 poll indicate substantial movement in this direction, at least as measured by parental comparisons of city and suburban schools. The percentage of city and suburban parents who view the schools in Wilmington as the "same" or "better" than suburban schools doubled from 1977 to 1979 (Figure 7). Among suburban public school parents, for example, the percentage viewing the schools located in the city as at least equal to the suburban schools increased from 20 percent in 1977 to 40 percent in 1979. Over two-thirds of the Wilmington parents now view the city schools as at least equal to the suburban schools.

In 1977 and 1978 about half of the city parents and one-third of the suburban parents believed that desegregation would improve education for black students (Figure 8). In 1979 about one-third of all parents thought this had indeed occurred. Thus, along the dimension of equality, desegregation has moved the schools toward a success. Unfortunately, when the view of the city and suburban schools as more equal is juxtaposed with the earlier suburban feeling that the county school district is not as good as the old suburban school

Figure 6



CHILD IN SAME SCHOOL THIS YEAR AS LAST YEAR :
COMPARISON OF SCHOOL THIS YEAR TO LAST YEAR

Figure 7

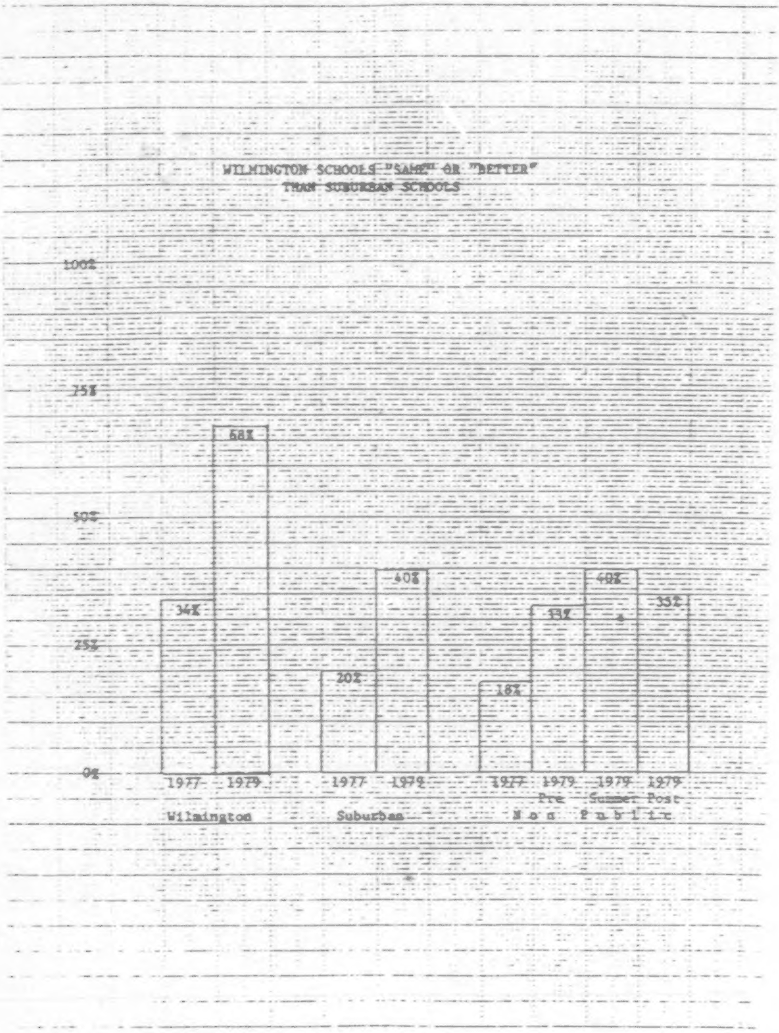
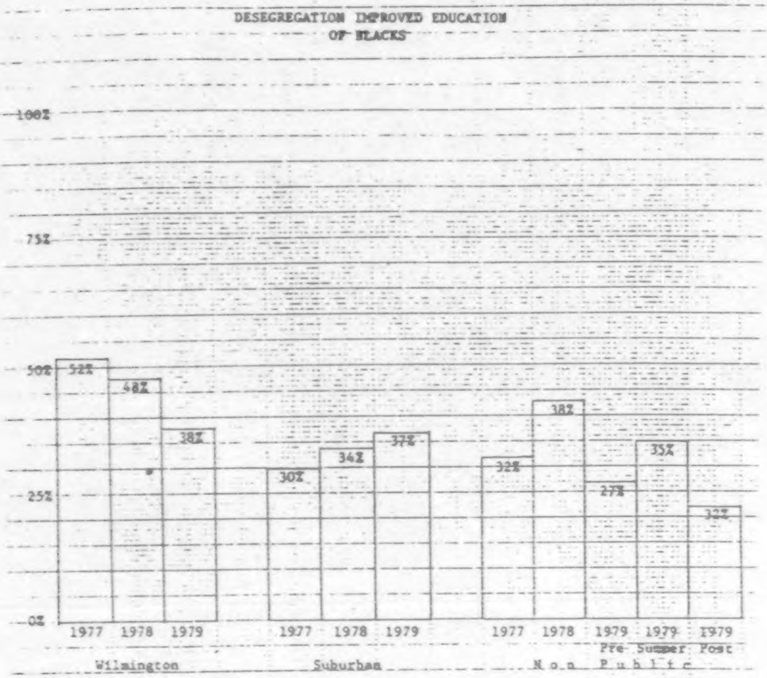

WILMINGTON SCHOOLS "SAME" OR "BETTER"
THAN SUBURBAN SCHOOLS
100%
75%
50%
25%
0%
34%
68%
20%
40%
18%
33%
40%
35%
1977
1979
1977
1979
1977
1979
Pre
1979
Summer
1979
Post
Wilmington
Suburban
Non Public

Figure 8


DESEGREGATION IMPROVED EDUCATION
OF BLACKS
100%
75%
50%
25%
0%
52%
48%
38%
30%
34%
37%
32%
38%
27%
35%
32%
1977
1978
1979
1977
1978
1979
1977
1978
1979
Pre
1979
Summer
1979
Post
Wilmington
Suburban
Non Public

districts, one could say that in the eyes of many suburbanites leveling has meant a leveling down of educational quality.

Attitudes Toward Busing

As the first year of busing ended, about two-thirds of the parents in New Castle County agreed that "all things considered, the start of busing went very well." In fact, suburban public school parents were the most likely to agree with this statement; over three-quarters agreed (Figure 9). The relatively good start of busing, however, seems to have had no effect on attitudes about busing. As Figure 10 indicates, suburbanites have remained almost unanimously opposed to busing, while city parents remain divided. In fact, despite the increased number of city parents who feel that the city schools are now equal to the suburban schools, opposition to busing among city parents may have increased to a majority.

This is not to say that all attitudes about busing in the suburbs have remained constant. As Figure 11 shows, few suburban parents (about 20 percent of the public and nonpublic parents) now believe that "if enough people show they are against it, busing can be stopped." In the suburbs, this percentage has dropped greatly from 1977 and 1978. City parents, however, have not changed their attitudes. Thus the reality of busing, at least in the suburbs, appears to have overtaken the rhetoric of obstructionism or reversal.

Suburban parents, almost all of whom are white, remain convinced that busing is detrimental to the education of white children. In 1977 and 1978 a majority predicted that desegregation would harm white achievement (Figure 12). In 1979 a majority of suburbanites believed that the prediction came true. Whether this belief will change if the positive results of the California

Figure 9

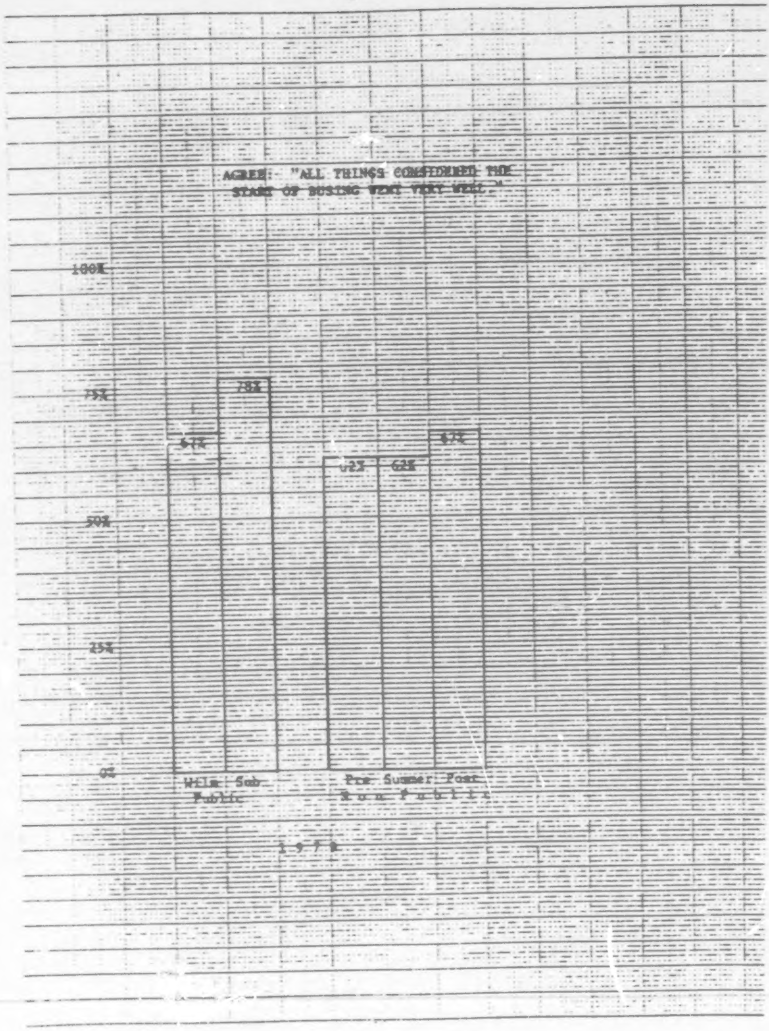

AGREE: "ALL THINGS CONSIDERED THE START OF BUSING WENT VERY WELL."
100%
75%
50%
25%
0%
67%
78%
62%
62%
67%
Wilm Sub
Public
Pre Summer Post
Non Public
1978

Figure 10

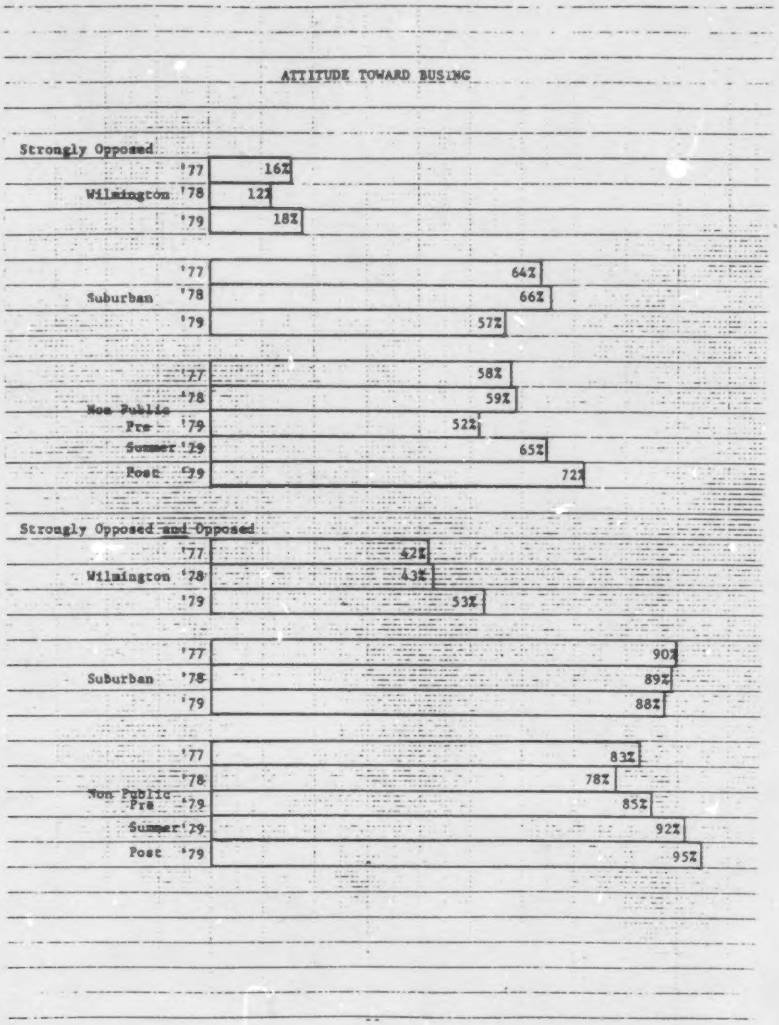
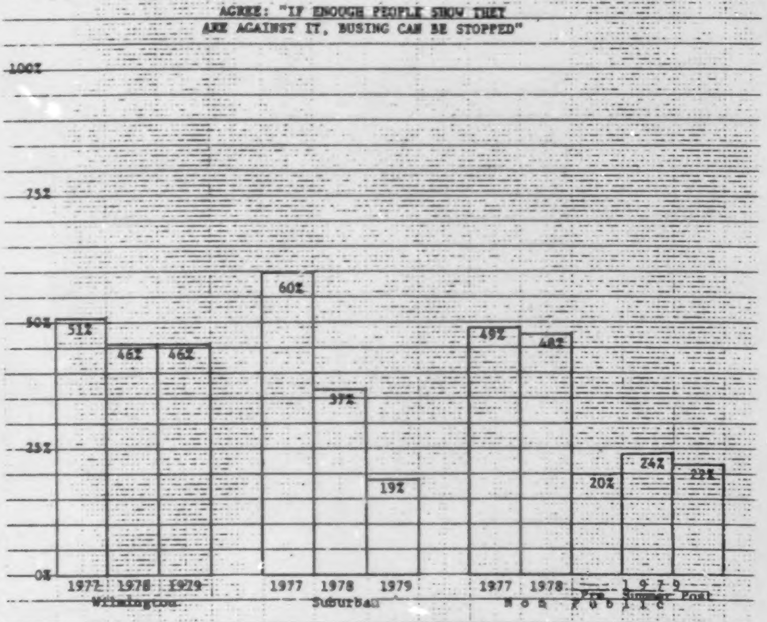
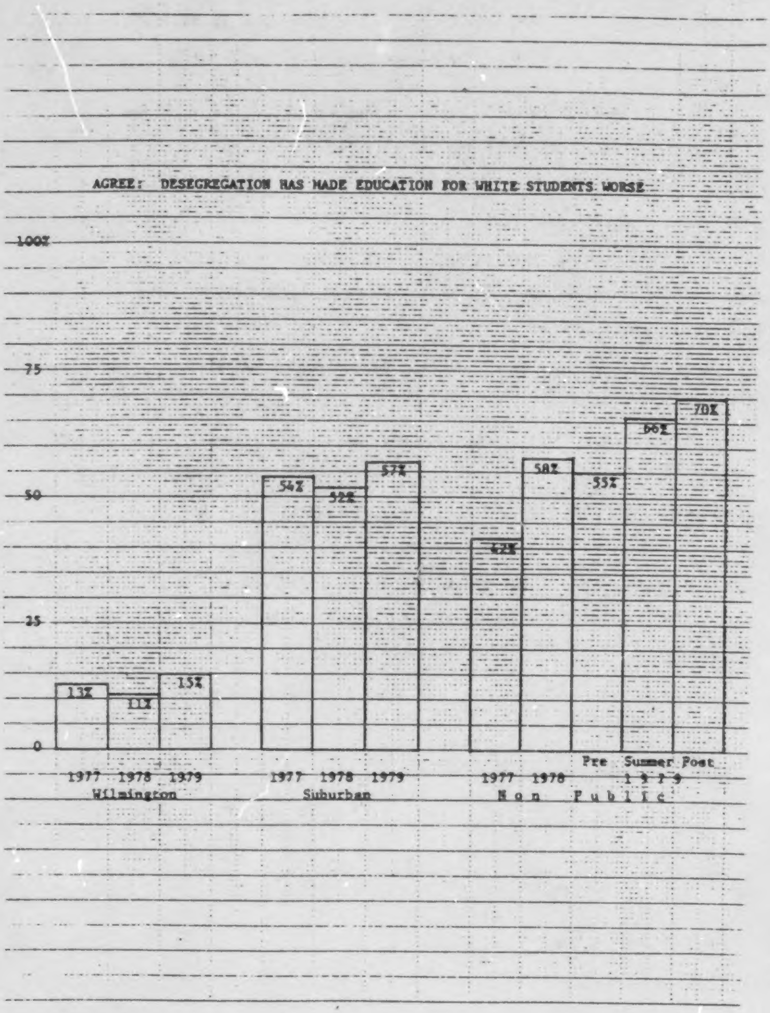

ATTITUDE TOWARD BUSING
Strongly Opposed
Wilmington
'77
16%
'78
12%
'79
18%
Suburban
'77
64%
'78
66%
'79
57%
Non Public
'77
58%
'78
59%
Pre '79
52%
Summer '79
65%
Post '79
72%
Strongly Opposed and Opposed
Wilmington
'77
42%
'78
43%
'79
53%
Suburban
'77
90%
'78
89%
'79
88%
Non Public
'77
83%
'78
78%
Pre '79
85%
Summer '79
92%
Post '79
95%

Figure 11



AGREE: "IF ENOUGH PEOPLE SHOW THEY ARE AGAINST IT, BUSING CAN BE STOPPED"

Figure 12



AGREE: DESEGREGATION HAS MADE EDUCATION FOR WHITE STUDENTS WORSE

Achievement Test become better known is uncertain.[1]

Thus the 1979 poll indicates tolerance and acceptance of busing, but there remains little suburban support for and much concern about this policy.

Effects of Desegregation: Participation, Knowledge, and Attitudes

Some have argued desegregation brings a renewed interest in the public schools that sparks increased public participation. Others have claimed desegregation physically and psychologically separates parents from the school, causing decreased parent participation. The 1979 poll suggests that parental participation has decreased since the start of desegregation and reorganization, especially among city parents.

On five of six measures of parental participation, Wilmington parents report a notable reduction in participation from last year (Figure 13). Comparison with 1978 survey results confirm the decline. For example, 22 percent of the city parents in the 1978 survey said that they "often" visited classrooms and 11 percent in 1979 reported this level of visitation for the previous year. Only six percent, however, report visiting classrooms "often" during the first year of desegregation. Participation by suburban parents declined on fewer comparisons than city parents, but in no case was an increase in activity even suggested.

Previous polls have suggested a limited base of knowledge underpins attitudes toward busing and desegregation, especially among city parents. Now that a desegregation plan is a reality and not a theory, has the level of information

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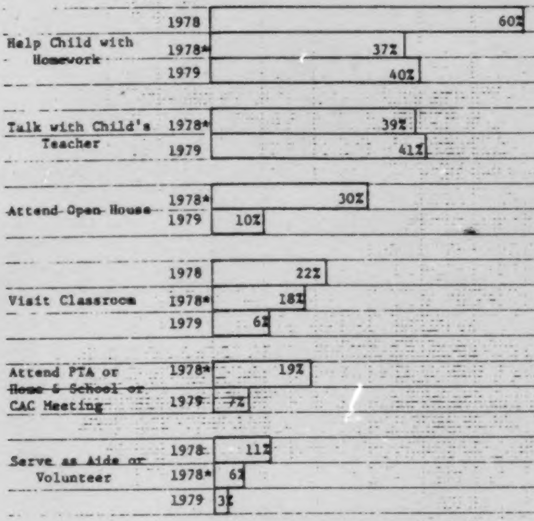
[1] See the Report of California Achievement Tests, Research, Evaluation, and Planning Division, New Castle County School District, August 1979, and Steve Goldberg, "New Castle County's Students Excel in Test," Sunday News Journal, 12 August 1979, pp. A1, A8.

Figure 13

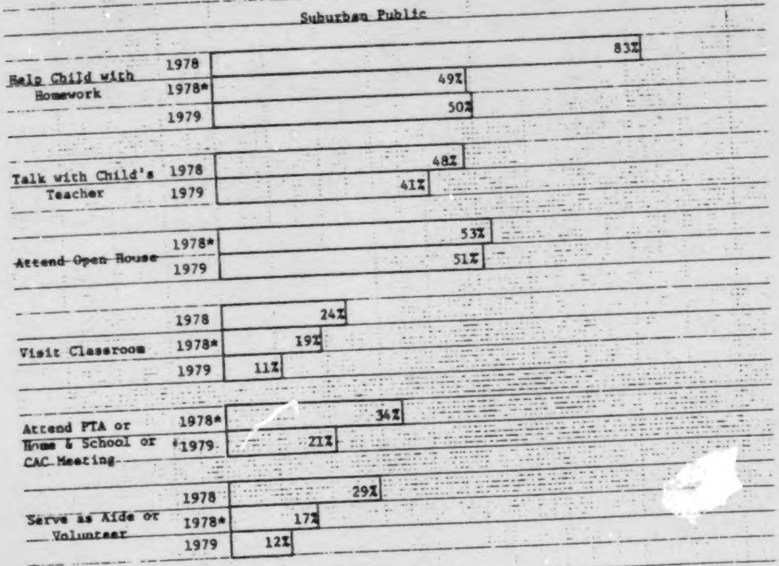
PARENT ACTIVITY: REPORT DOING "OFTEN"

Wilmington Public



*As reported retrospectively in the 1979 poll.

Figure 13 (Cont.)



*As reported retrospectively in the 1979 poll.

in New Castle County increased? The 1979 survey suggests the best answer is "not much."

Parents were asked nine of the same knowledge items in 1979 as they had been asked in 1978. In the city, a significantly higher percentage of parents made the correct response on three items in 1979; on the other six items about the same percentage of city parents answered correctly in 1979 as had done so in 1978 (Figure 14). In the suburbs, public school parents did better on one item, worse on a second, and essentially the same on the remaining seven. Thus at best there was a limited increase in the level of knowledge among city parents.

Both city and suburban parents did become more cognizant of the fact that a single school district replaced the local districts of New Castle County. Even so, less than half of the city parents (44 percent) and slightly over three-quarters of suburbanites (80 percent) answered this item correctly. Slightly over half of both city and suburban parents seem aware of the racial distribution of students in the newly desegregated school district. The city parents are less conscious of the taxation and governance situation than suburban parents. Both groups continue to exaggerate the financial costs of desegregation. While the figures are not reported here, the nonpublic school parent sample, almost entirely composed of suburbanites, is now as knowledgeable as suburban public school parents. In 1978 private and parochial school parents were less knowledgeable.

Some believe that a major long term effect of school desegregation will be to lessen racial prejudice and antagonisms. Others believe that busing conflicts heighten racial antagonisms. What has happened in New Castle County to date?

Neither the optimists nor pessimists appear to be right about the effect of school desegregation on racial attitudes. At least in the short run in New Castle County, as measured by the poll reported here, racial attitudes remain unchanged. The 1977 poll indicated that few people in New Castle County were overtly prejudiced, at least as measured by a poll. In 1977 84 percent of city public, suburban public, and nonpublic school parents agreed with the statement, "People of different races should live in the same neighborhood." In 1979 even higher percentages in each category of suburbanite answer that they would "not mind at all" if a black family with about the same income and education were to move next door.

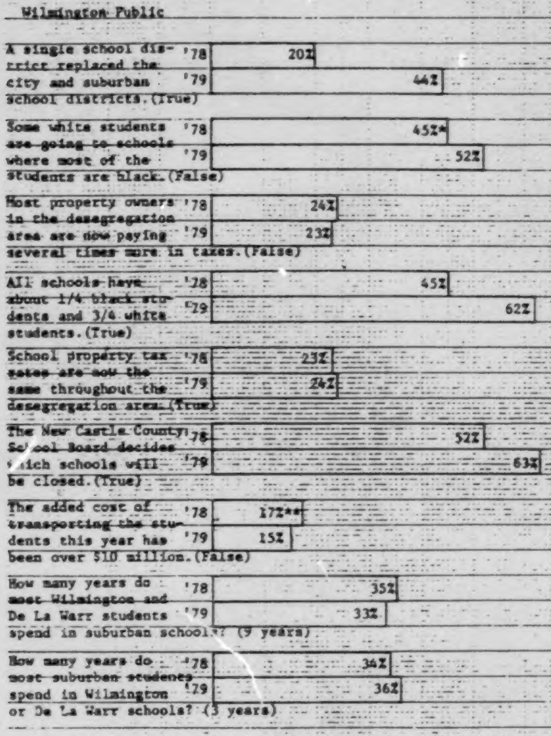
Previous surveys here and elsewhere have indicated that more subtle measures of racial attitudes are required to tap feelings of racial antagonism. Analysis indicates, however, that on significant measures of racial attitudes there has been no change in New Castle County since 1977. In 1977 62 percent of suburban public school respondents agreed that "government pays too much attention to blacks" and this percentage hardly fluctuated in 1978 and 1979 (Figure 15). This result is indicative of findings on a number of attitudinal measures concerning feelings about the city, low income housing policy, and other racially-linked items not reported here.

White Flight

There now seems to be little doubt that flight has occurred from the New Castle County public schools, although the questions of whether flight is only "white," who has flown, and why, have not been answered. This report seeks to begin an analysis of the 1979 poll on these questions; the data and issues are complicated and thus this report should be considered only a preliminary one.

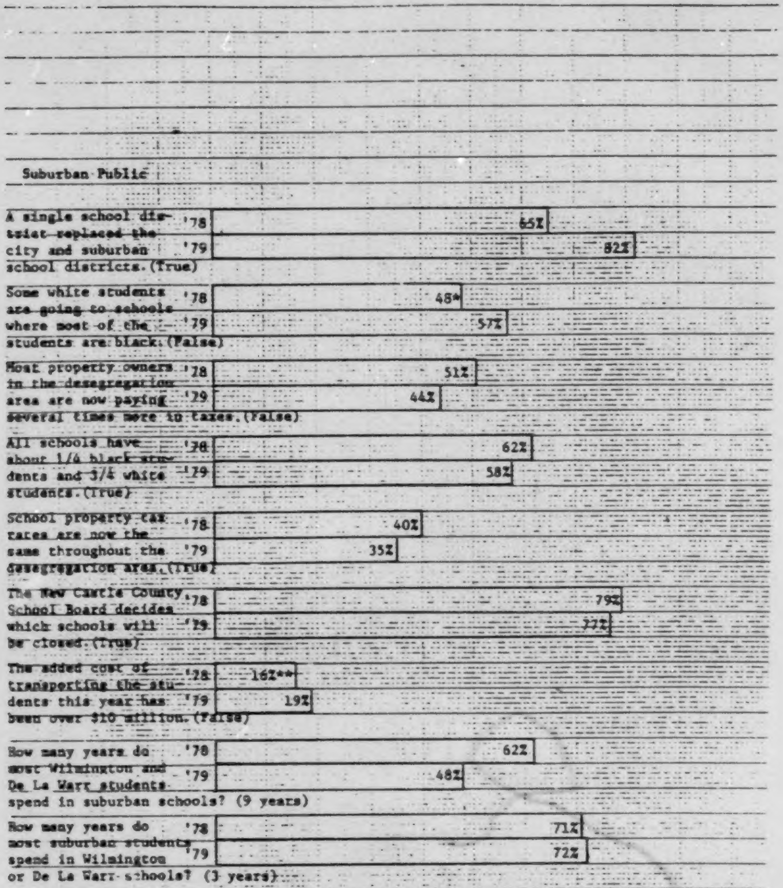
Figure 14

CORRECT ANSWERS ON KNOWLEDGE ITEMS



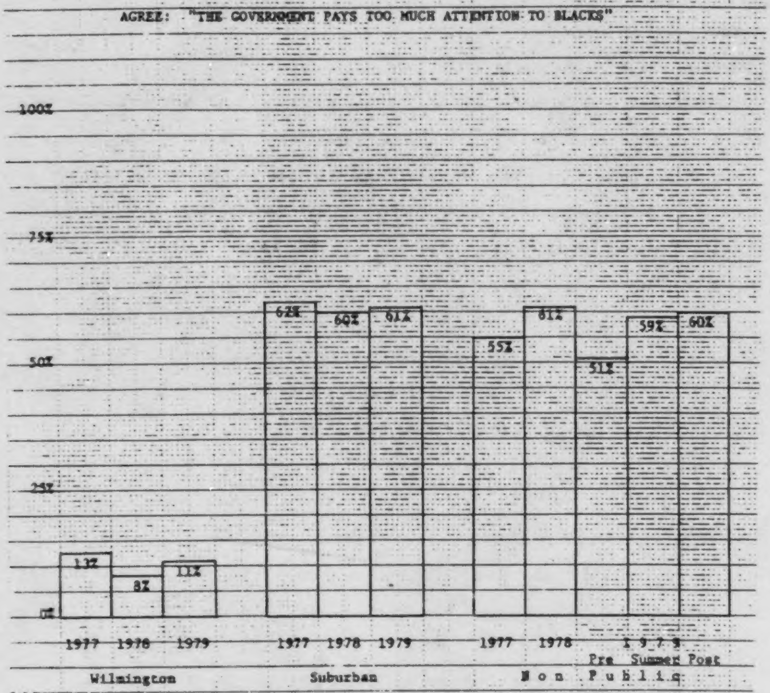
*1977 figure: 35%
**1977 figure: 14%

Figure 14 (Cont.)



*1977 figure: 47%
**1977 figure: 21%

Figure 15


AGREE: "THE GOVERNMENT PAYS TOO MUCH ATTENTION TO BLACKS"
100%
75%
50%
25%
0%
13%
8%
11%
62%
60%
61%
55%
61%
51%
59%
60%
1977
1978
1979
1977
1978
1979
1977
1978
1979
Pre
Summer
Post
Wilmington
Suburban
Non Public

The first conclusion is that although some have been concerned about "black flight," the magnitude of this phenomenon, if it exists, is extremely small. In this sample, only 3 of the 234 public school withdrawals (about 1 percent) are black. Furthermore, few black public school parents say they are considering switching their child or children in the future (N=3). Given the limited cases of black potential or actual flight, the discussion below is limited to the suburban samples (i.e., primarily whites).

Two implicit theories of who has left the public schools have dominated discussion. The first could be called the "steam kettle" theory. Under this theory it is assumed that those who have left the county's public schools are the most racially prejudiced. Steam kettle theorists would, therefore, just as soon see these people leave the public schools. The second theory could be called the "leadership" theory. Under this theory it is assumed that those who have left the public schools are the most concerned about their children's education and the most likely to provide positive leadership for the public schools. If this analysis were true, the loss of whites due to flight should be a major concern to those interested in public education in Delaware.

The 1979 poll results indicate no support whatsoever for the steam kettle theory. Parents who withdrew a child from the public schools in the summer before desegregation and in the first year of desegregation do not appear to be significantly more racially prejudiced than those who left their children in the public schools. For example, while 61 percent of the suburban public school parents think that the government has given blacks too much attention, 59 percent of the summer withdrawal parents and 60 percent of the school year withdrawals also agree (Figure 15). This finding was true on all the measures of racial attitudes. In addition, while 34 percent of suburban public school parents reported joining an anti-busing organization (presumably the Positive Action Committee), the same percentage of withdrawal parents reported being members (Figure 16). Nor are the parents who left the public school system any less informed than their counterparts who remained. The steam kettle theory does not hold any water.

The rejection of the steam kettle theory does not necessitate the acceptance of the leadership theory. Other explanations may be required to explain white flight. But there is some support for the leadership theory. As Figure 17 indicates, parents who withdrew children from the public schools are more likely to be college educated and to have incomes over $20,000 per year than those who did not withdraw a child. They are also more likely to view their child as "highly motivated" and as an "excellent student" (Figure 18). While the differences are not great, they are in the direction of the leadership theory.

Furthermore, those considering switching their child out of the public schools next year are more likely to reside in the old upper income suburban districts and to have higher incomes. While all of those suburban respondents with incomes under $10,000 a year plan to keep their child in public school, 90 percent of the middle income ($10-30,000) and only 86 percent of the high income parents (over $30,000) plan to keep their child in public school.

It is interesting to note that about 10 percent of the withdrawal parents claim that one spouse went to work to help pay for sending a child to a non-public school and that about 12 percent more withdrawal parents than suburban public school parents have incomes over $20,000 a year. Thus the difference in incomes between those who withdrew and those who did not may result from the decision to withdraw, rather than the withdrawal decision being a function of

Figure 16

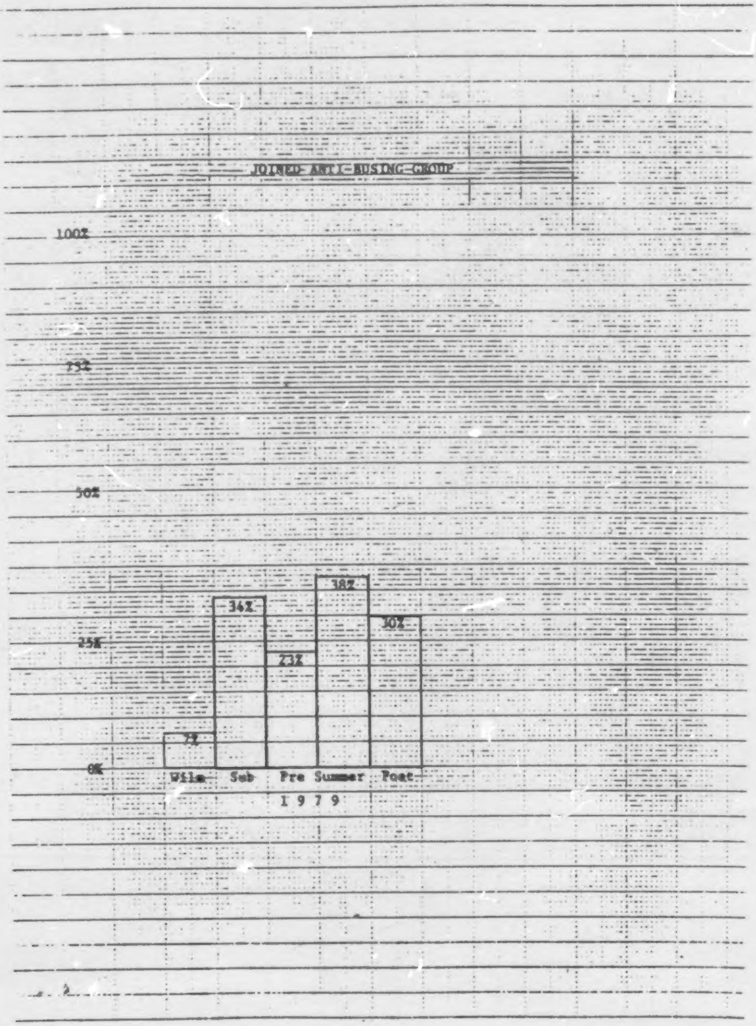

JOINED ANTI-BUSING GROUP
100%
75%
50%
25%
0%
7%
34%
23%
38%
30%
Wilm
Sub
Pre
Summer
Post
1 9 7 9

Figure 17

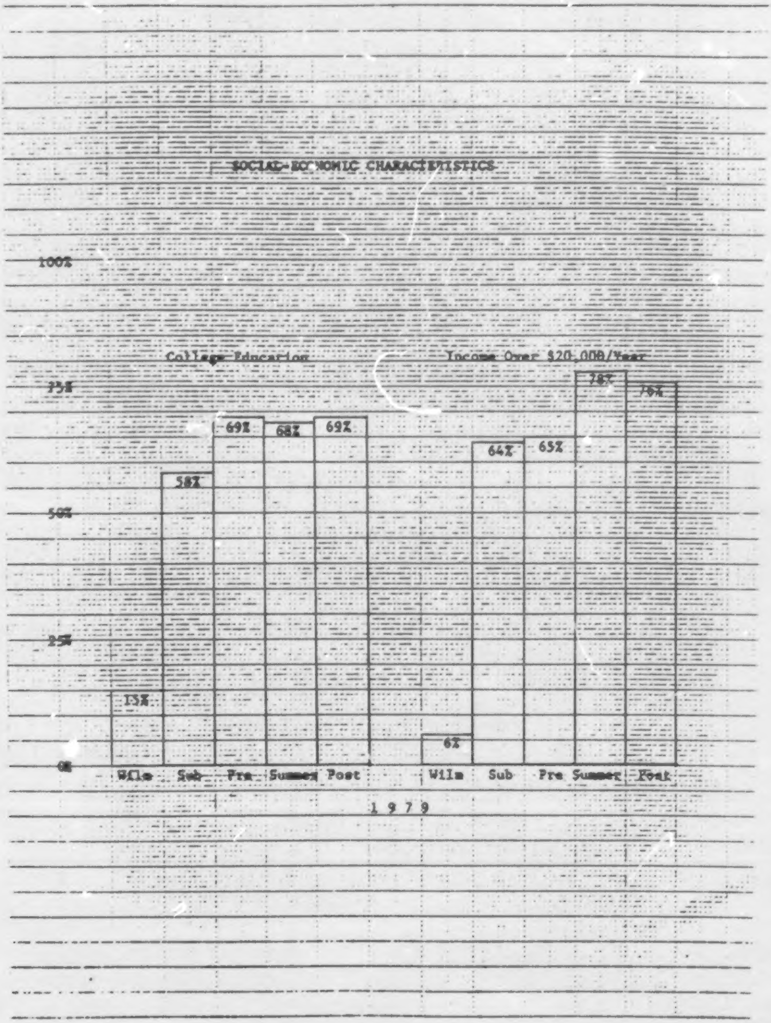
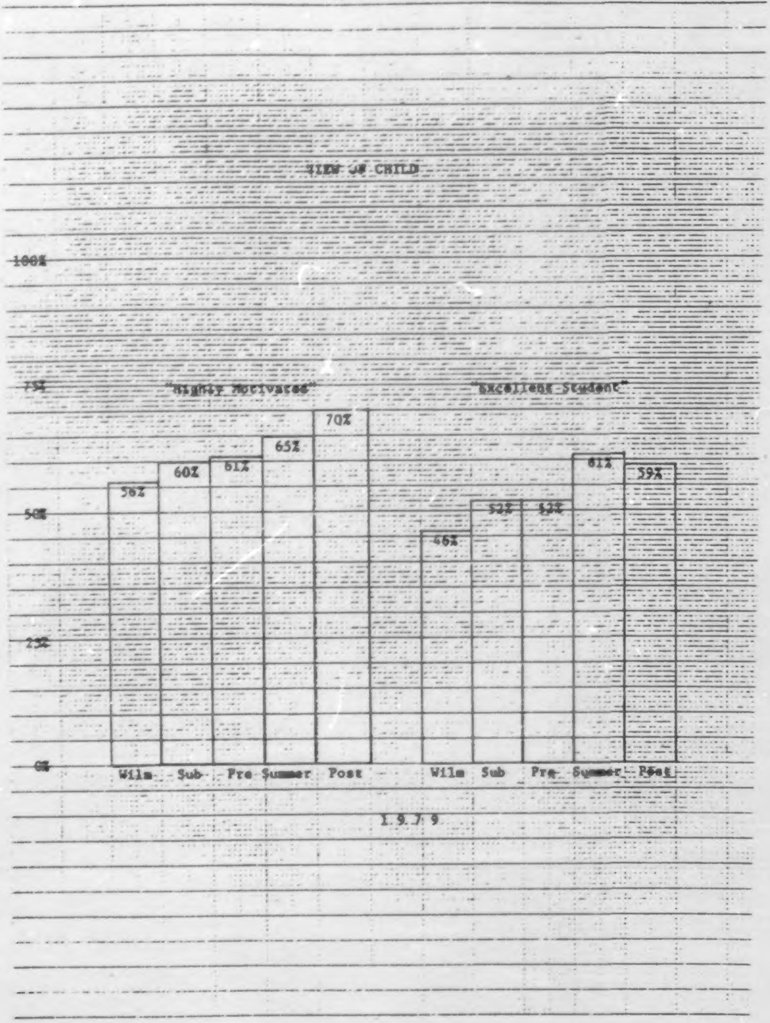

SOCIAL-ECONOMIC CHARACTERISTICS
100%
75%
50%
25%
0%
College Education
Income Over $20,000/Year
13%
58%
69%
68%
69%
6%
64%
65%
78%
76%
Wilm
Sub
Pre
Summer
Post
Wilm
Sub
Pre
Summer
Post
1 9 7 9

Figure 18


VIEW OF CHILD
100%
75%
50%
25%
0%
"Highly Motivated"
56%
60%
61%
65%
70%
Wilm
Sub
Pre
Summer
Post
"Excellent Student"
46%
52%
52%
61%
59%
Wilm
Sub
Pre
Summer
Post
1979

income.

An alternative theory may help to explain white flight. An "experience" theory would suggest that parents withdraw their children because of the particular experience they and the child encounter, not because of any general racial attitude or social-economic characteristic. This theory clearly puts the burden of flight more squarely on the shoulders of school and public officials than do those based on parent characteristics or attitudes.

Preliminary analysis suggests some support for the "experience" theory. People who withdrew during the school year were more negative about the public schools than any other group. While three-quarters of the suburban public school parents rated this year's and last year's schools as "good" or "excellent" and almost a similar percentage of summer withdrawals (68 percent) rated last year's public school the same, only one-third (33 percent) of the school year withdrawals rated this September's public school so highly. Furthermore, other comparisons between the school year withdrawals' view of this September's schools with the other suburbanites' views of the public schools, suggest the school year withdrawal parents have specific dissatisfactions with their child's school. For example, only 58 percent of the school year withdrawals stated they were "satisfied" with this year's public school teacher, while about four-fifths of the suburban public school (82 percent) and summer withdrawals (79 percent) were satisfied last year. Furthermore, when asked how important various reasons were for their switching their child, school year withdrawals tend to be more likely to cite factors like "poor teaching," " a lower quality of education," and "child not challenged" than summer withdrawals (Figure 19). The summer withdrawals had a greater tendency to cite busing-related factors. It should be noted that a majority of the school year withdrawals who had their child in school during the strike cited the strike as a very important factor in their decision to switch.

A warning is in order, however. School year withdrawals could be subconsciously rationalizing their decision, and the resulting expense of nonpublic school, by reporting very negative experiences in the public schools. That is, many of these parents could be searching for reasons to justify their expensive actions. It is hoped that further analysis will help to clarify this (and other) issues, by examining changes in attitudes and actions among those who were interviewed before and after desegregation.

The major conclusion that should be apparent from this analysis of white flight is that neither parents nor officials should be sanguine about those who have left. Those who have fled are not any more racially bigoted than those who have remained. To some extent they represent the leaders of suburban parents, many of whom judged their child's school as educationally inadequate. If one cannot be sanguine, the next questions must be, can flight be reversed, halted, or slowed down, and if so, by what means?

It is clear that in New Castle County a two-tiered system of education has not been established; suburban public school parents have a foot in the nonpublic school door and vice versa. There has been and it is likely there will continue to be a two-way flow between public and nonpublic schools.

Many current suburban public school parents have considered sending their children to nonpublic schools. In fact, less than one-third of the suburban public school parents say they never considered switching one of their children (Figure 20). About the same percentage reported considering a switch and rejecting it for financial reasons. Few of these parents, however, report they are likely to switch a child to a nonpublic school next year. Eighty-nine

Figure 19

CONCERNS VIEWED BY WITHDRAWALS AS "VERY IMPORTANT" IN DECISION TO SWITCH TO NON PUBLIC SCHOOL"

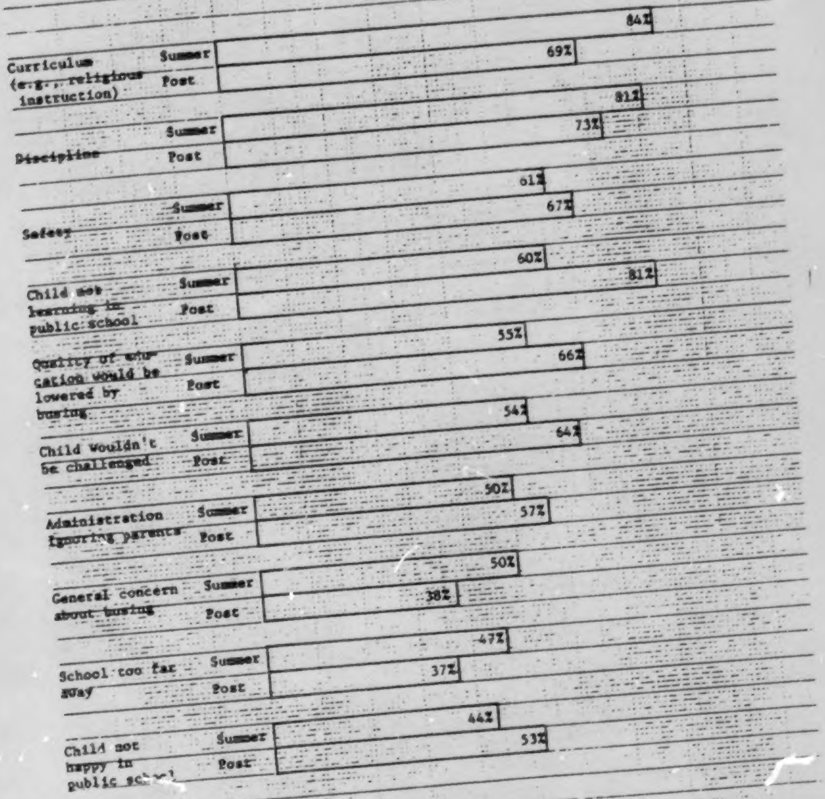


Figure 19 (Cont.)

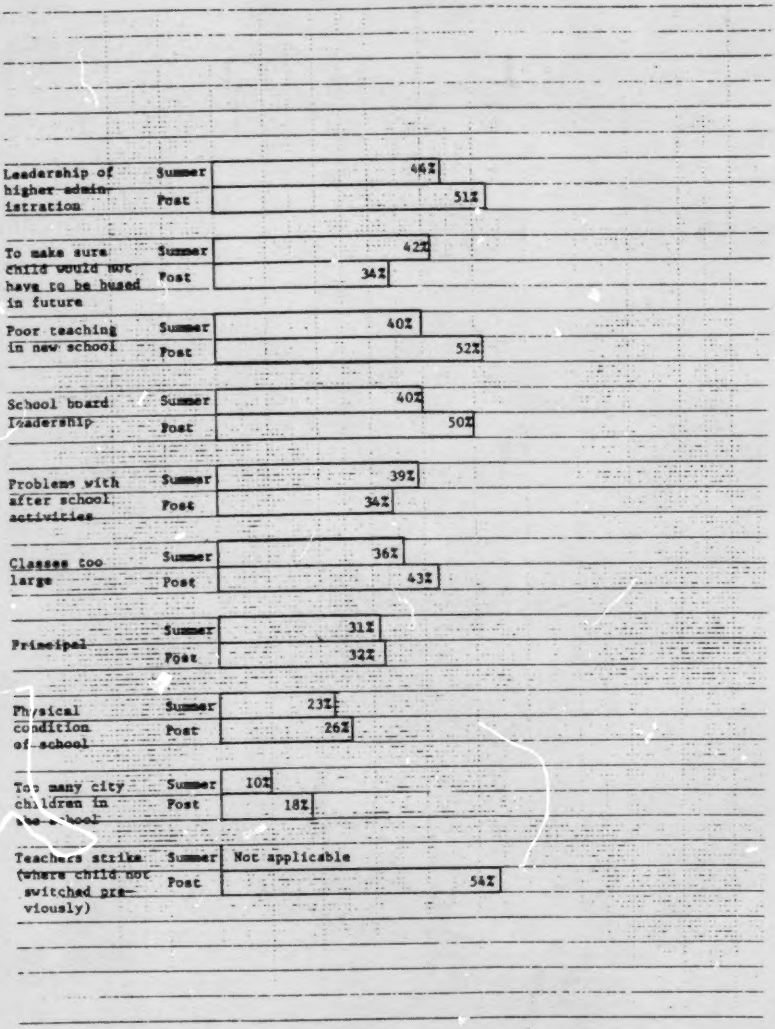
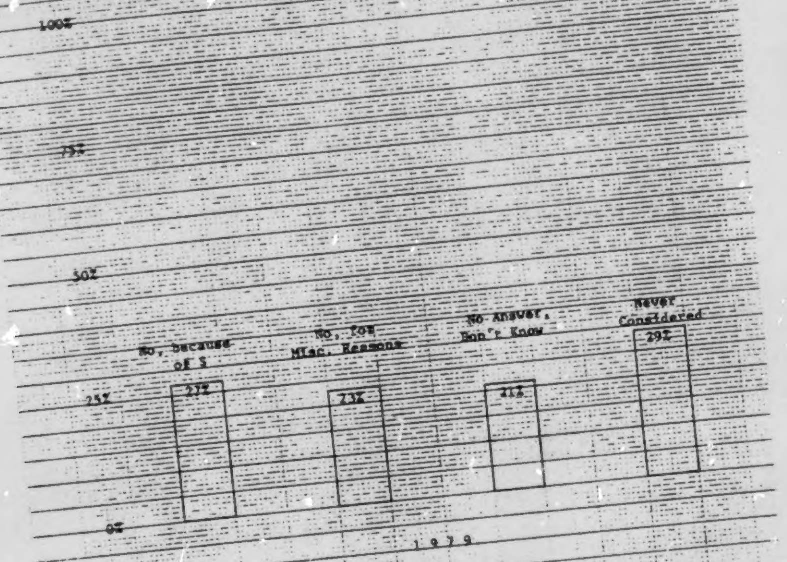


Figure 20

CONSIDERATION OF FLIGHT BY
SUBURBAN PUBLIC SCHOOL PARENTS



percent said that they would keep their child in public school next year; six percent reported they were planning to switch (Figure 21).[1]

Those with children in private and parochial schools continue to eye the public schools. Many of the parents in each of the three nonpublic groups can conceive of circumstances under which they would switch a child back to public school. In fact, 13 percent of the pre desegregation nonpublics, 15 percent of the summer withdrawals, and 20 percent of the school year withdrawals report they "probably" or "definitely" will switch a child back to the public schools at some point. As the experience theory would suggest, the school year withdrawals were the most able, and the pre desegregation withdrawals the least able, to state the conditions under which they would switch.

Of those nonpublic school parents who are contemplating a switch to public school, less than a quarter (19 percent for next year, 5 percent for the year after) report that they will switch within two years. This reference to a switch in the future is explained in part by Figure 22. Few parents think the county schools are "now" or will "soon" be operating "normally," but neither does a majority think that the schools will "never" return to normal.[2] This raises the intriquing question: what would reassure parents?

The 1979 poll included a number of questions concerning what would bring

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[1] The News Journal reported an expected enrollment drop of 8.3 percent in the county public schools for this September. The newspaper estimated that three percent of this drop could be attributed to birth rate declines. This would imply a white flight rate of about six percent among suburbanites. See Steve Goldberg, "Enrollment Looks Grim for Deseg District," News Journal, 25 August, 1979, p. 1.

[2] In retrospect "normal" may have been a poorly chosen word, for school desegregation is supposed to end segregation being "normal." I believe that operating normally brings to mind a relative lack of disruption and problems, but I am sure that others will interpret this item differently.

Figure 21

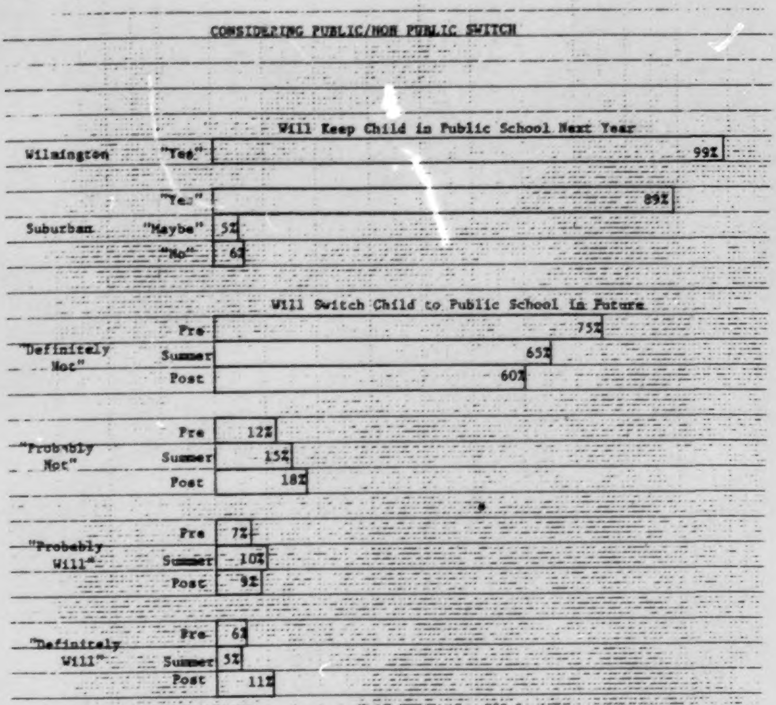

CONSIDERING PUBLIC/NON PUBLIC SWITCH
Will Keep Child in Public School Next Year
Wilmington
"Yes"
99%
Suburban
"Yes"
89%
"Maybe"
5%
"No"
6%
Will Switch Child to Public School In Future
"Definitely Not"
Pre
75%
Summer
65%
Post
60%
"Probably Not"
Pre
12%
Summer
15%
Post
18%
"Probably Will"
Pre
7%
Summer
10%
Post
9%
"Definitely Will"
Pre
6%
Summer
5%
Post
11%

Figure 22

WHEN WILL THE SCHOOLS BE BACK TO OPERATING NORMALLY?

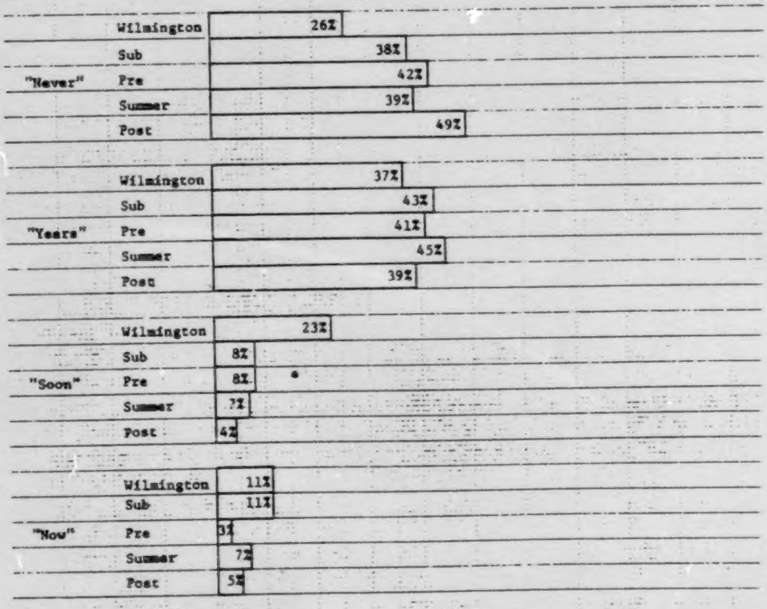
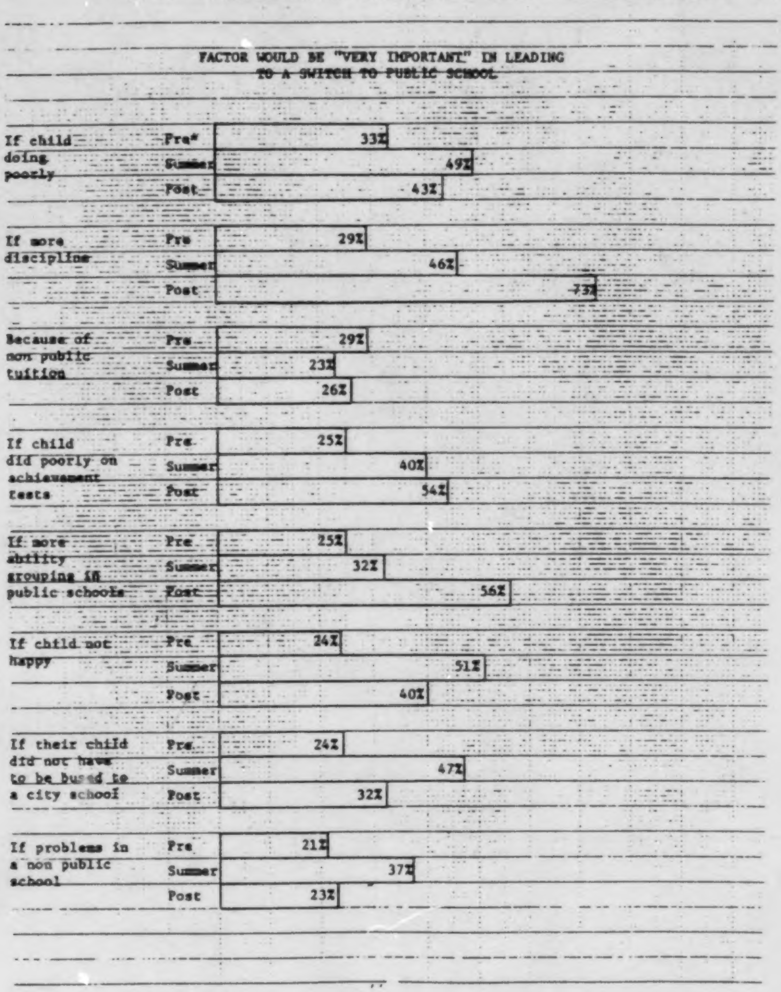
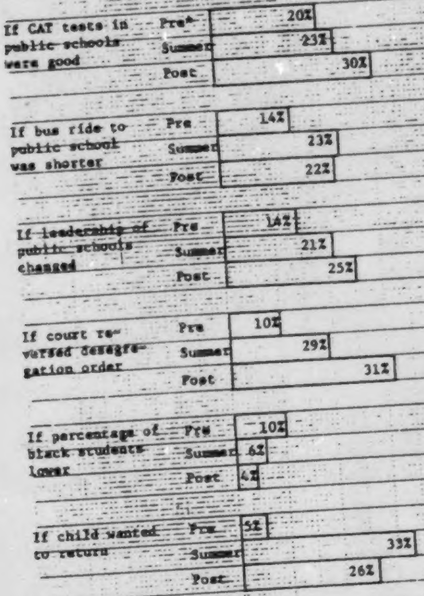


Figure 23



FACTOR WOULD BE "VERY IMPORTANT" IN LEADING TO A SWITCH TO PUBLIC SCHOOL

Figure 23 (Cont.)



*This figure reports the percentage of those who said they would consider switching thei child to public school. The number of parents in any single sample is small (Pre N = 2 Summer N = 35, Post N = 47).

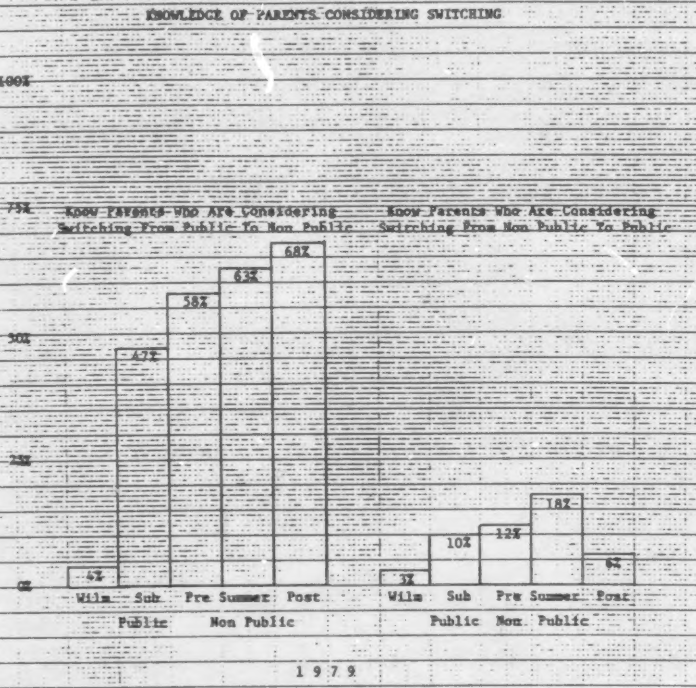
withdrawals back to the public schools. Figure 23 reports the results.

It is evident that none of the circumstances listed would be very likely to attract the pre-summer withdrawals to the public schools. In general they send their children to nonpublic school for reasons unrelated to the "push" feelings against busing and more related to the "pull" of reasons like religious instruction.

Not surprisingly, the summer withdrawals are the most concerned about busing per se. Almost half would see the end of busing for their child as a "very important" reason to return. The school year withdrawal parents seem highly focused on academic related changes, the primary ones being more discipline and ability grouping. Thus, while few (25 percent) of the pre-summer withdrawals would view their child's doing poorly in school as a very important reason for return, almost half (40 percent) of the summer withdrawals and more than half (54 percent) of the school year withdrawals would view this as a key factor.

It must be noted that while by self-report it is evident that the public-nonpublic road is a two-way street, New Castle County suburbanites do not know this is true. Over half of the suburban parents are aware of other parent's thinking of switching their children out of public school, but hardly any (less than 20 percent in any group) are aware of an equal magnitude's thinking about switching their children from private to public school (Figure 24). Whether this is because so many more children are in public than nonpublic school, because some parents are not reporting their true intentions, because the switch to nonpublic is immediate and to public is long term, or what, is now unclear. What does seem to be clear is that the public schools now seem to be "out," the private and parochial schools are "in," and few county parents realize the

Figure 24


KNOWLEDGE OF PARENTS CONSIDERING SWITCHING
100%
75%
50%
25%
0%
Know Parents Who Are Considering Switching From Public To Non Public
Know Parents Who Are Considering Switching From Non Public To Public
4%
47%
58%
63%
68%
3%
10%
12%
18%
6%
Wilm
Sub
Pre
Summer
Post
Public
Non Public
Wilm
Sub
Pre
Summer
Post
Public
Non
Public
1979

magnitude of the potential return to the public schools that may occur.

Support for Policy Changes

Given all that has occurred in the county schools over the last few years, it is not surprising to find the public has some strong ideas about how to improve the schools. In the 1979 poll parents were asked their opinion of a number of possible changes in the public schools.

On a number of items consensus appears to exist, if only among suburban parents (Figure 25). Suburban parents support stricter discipline, an elected school board, and special programs (like those for the gifted and those requiring remedial reading). A smaller percentage of city parents support the first two changes; city parents support the latter. Not surprisingly suburban public school parents and, to a greater extent, city parents oppose the closing of more public schools. Surprisingly, however, nonpublic school parents are also not in favor of this alternative. Perhaps this again is an indication of their ties to the public schools and the possibility that they may wish to return their child there in the future. There also appears to be near consensus on increased ability grouping. It is important to note that the greatest support comes from those who have withdrawn a child from the public schools and that almost three-quarters (73 percent) of the city parents support this policy.

Three issues were the subject of heated debate during the school year—money for the public schools, dividing the county district into four school districts, and establishing a Basics Plus school or schools in the county. Public opinion in the county on each is of interest and offers some surprises.

A slight majority of suburban public school parents favor more funds for the public schools. A large majority of city parents favor more funds. While a majority of nonpublic school parents do not favor more funds for the public schools, over one-third who withdrew their child support more money. This is a further illustration of their public school concern, although the poll indicates a referendum would have a difficult, but not impossible, time.

Only slightly more than a majority of suburban parents (e.g., 56 percent of the public school parents) and less than a quarter of the city parents favor dividing up the county district. Despite State Board support and legislative interest in this change, a consensus for further reorganization is lacking.

Unlike support for dividing the county district, support for giving parents a choice of schools, like a Basics Plus or schools for gifted students, is fairly high and widespread across all groups. Nonpublic school parents are more in favor of this change than public school parents. This suggests that a choice might encourage some nonpublic school parents to return to the public schools. Certainly their school ratings suggest that, whatever the reason, choice is tied to school support.

Conclusions

One year after metropolitan desegregation began in New Castle County this poll of county parents suggests many reasons to be optimistic. Almost all parents think busing began in as good a way as could have been expected. Those who are most familiar with the public schools are the most positive about them. The more direct the experience public school parents have had with what they are judging, the better they judge it to be. Teachers and individual schools are rated highly; desegregation does not seem to have destroyed faith in one's child's school or one's child's teacher. The schools in the city are now much more likely to be viewed as equal to suburban schools. While busing is not

Figure 25

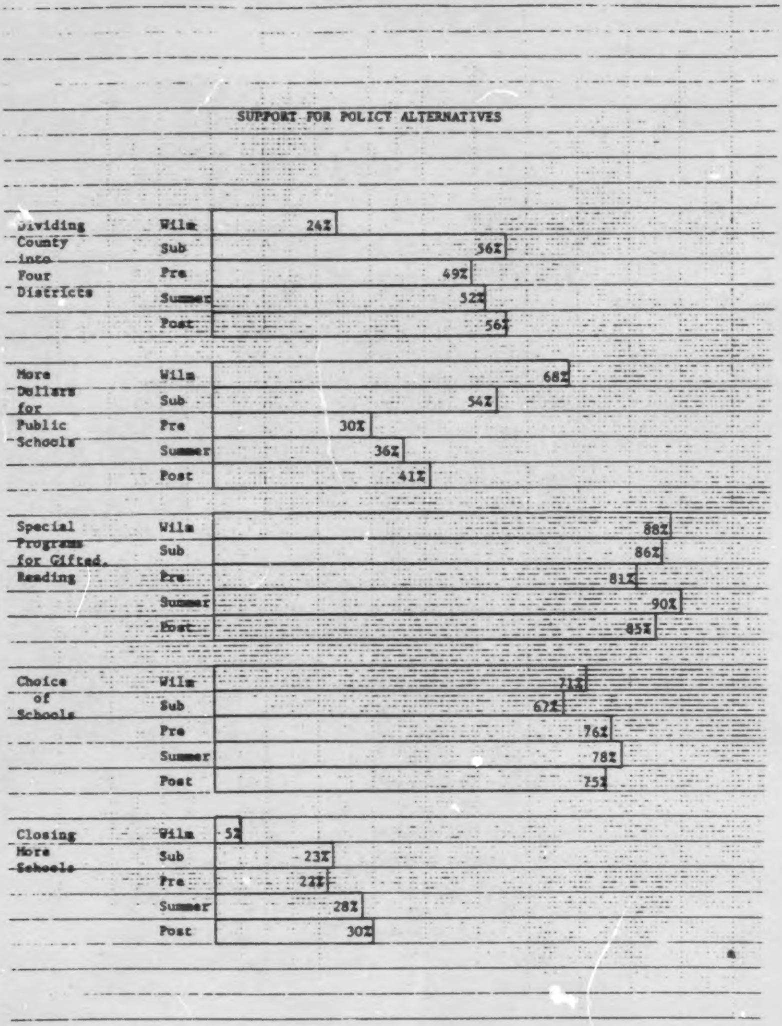
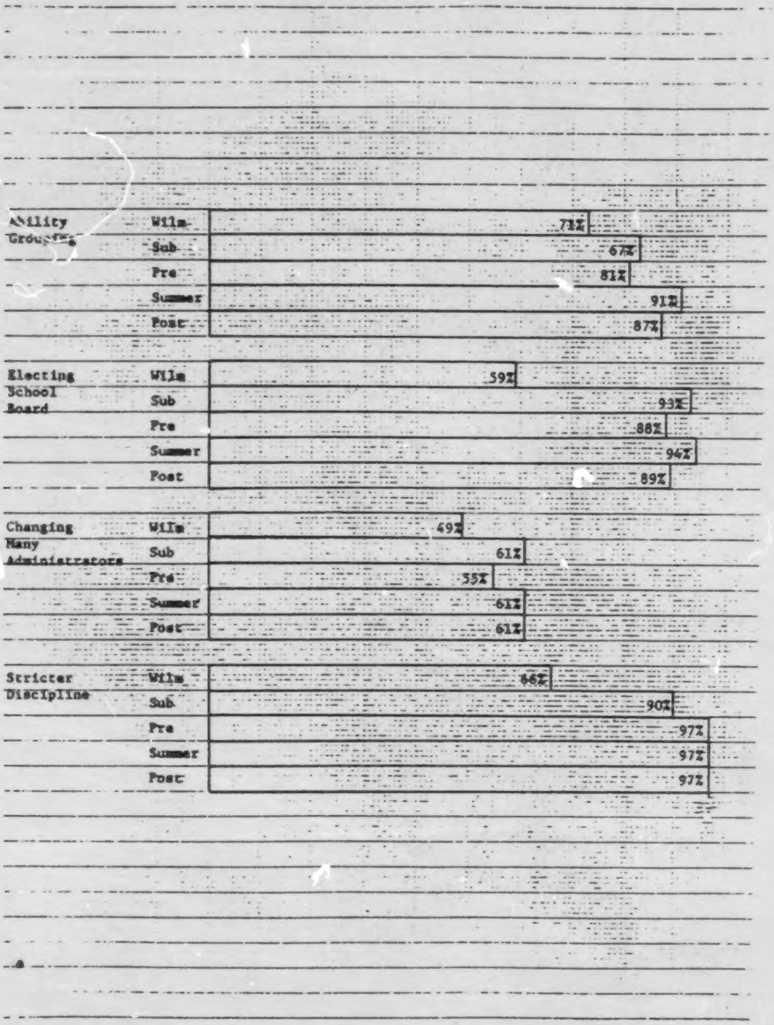

SUPPORT FOR POLICY ALTERNATIVES
Dividing County into Four Districts
Wilm 24%
Sub 56%
Pre 49%
Summer 52%
Post 56%
More Dollars for Public Schools
Wilm 68%
Sub 54%
Pre 30%
Summer 36%
Post 41%
Special Programs for Gifted, Reading
Wilm 88%
Sub 86%
Pre 81%
Summer 90%
Post 85%
Choice of Schools
Wilm 71%
Sub 67%
Pre 76%
Summer 78%
Post 75%
Closing More Schools
Wilm 5%
Sub 23%
Pre 22%
Summer 28%
Post 30%

Figure 25 (Cont.)



favored, its existence is now widely accepted.

While white flight and a decrease in school participation have occurred, racial views have not worsened. Furthermore, there are indications that the loss of some whites is not permanent. Parallel systems of education have not been created as a result of busing; a flow of public to nonpublic education and vice versa seems likely to continue. Many private and parochial school parents are keeping an eye on the public schools as a future option.

All of this implies that school and governmental action can improve the situation. The school district can build on the public's positive views of the teachers and schools with which they are familiar. By encouraging parents to have more contact with these teachers and schools, confidence can probably be increased. The fact that few parents now believe that public clamor will change the existence of busing in New Castle County should encourage more politicians to turn their attention away from efforts to stop busing and toward efforts to cope with it. White flight must be viewed as a critical problem, but it is one where solutions, while not easy, are possible. School choice, increased ability grouping, special programs, and, in general, attention paid to educational quality should help to reverse or halt the flow out of the public schools. Despite busing, the public expresses some willingness to support funds for improvements in the public schools.

While the 1979 poll suggests many reasons for optimism, there are also plenty of reasons for pessimism. In the suburbs, school district ratings have decreased dramatically. Not only are some whites withdrawing their children from the public schools, the withdrawal parents seem to be more likely to be public school leaders, leaving when they are needed most. No improvement in racial attitudes or desegregation and school district knowledge has resulted

Dr. **Raffel**. Thank you.

At the conclusion of the 1978-79 school year, my college, the College of Urban Affairs and Public Policy at the University of Delaware, polled 839 New Castle County parents. Our sample included parents who had their children in public schools in 1977-78 and kept them there; parents who had taken their children out of public schools during the summer before desegregation began or busing began, and also during the school year. It also included parents who had had their children in a parochial or private school during this whole time period.

I want to summarize the results of our analysis from that first year of busing. In terms of attitudes toward busing, most parents agreed or a large majority agreed that, all things considered, busing had gone well. Also, by the time we did our poll, people believed that busing was inevitable.

On the other hand, support for busing remained almost nonexistent in the suburbs, where about 9 out of 10 people opposed it. Disagreement on busing remained among city parents with about half opposing this policy in 1979. Overall, we summarized that acceptance and tolerance, but not support for busing, existed in New Castle County in 1979.

The second dimension we looked at was the evaluation of schools in the school district. We found that school district ratings, for a number of reasons that Mr. D'Onofrio and Dr. Johnson have mentioned, plummeted in New Castle County. The percentage rating the school district as "good" or "excellent" dropped from 80 percent down to 37 percent in 1979. Now, of course, we moved from 11 school districts to 1 school district during this period, and I believe that would partially explain what happened. There are many other reasons, too. Ratings by city parents remained relatively constant.

School ratings, however, were higher than school district ratings in the 1979 poll. Over 60 percent of city and suburban parents rated their child's school as "good" or "excellent." However, let me add in comparison that nonpublic school parents were almost unanimous in rating their child's school as "good" or "excellent."

Satisfaction with one's child's teacher and happiness at the school, or the parents' perceived happiness of the child at the school, was widespread. Over two-thirds of all public school parents were satisfied with each in the spring of 1979.

Our conclusion was that generally the closer public school parents were to the object or situation they were asked to evaluate, the higher their evaluation. Parents tended to rate their child's teacher positively while viewing the school somewhat less positively, but still positively, and viewing the district far less favorably. I might also add that parents who were most active in the schools were more positive in general than those less active in school affairs.

The third dimension we looked at was the equality of educational quality. We asked parents both before and after desegregation whether they thought that the schools in Wilmington were better than, equal to, or did not present as much quality as schools in the suburbs. We found a doubling of the percentage in the suburbs and in the city who said that in general the Wilmington schools or the city schools were equal to the suburban schools or, in a few cases, better.

This, of course, is one of the main objectives, if not the main objective, of the court as I understand it, to change "black" schools and "white" schools into schools, schools of substantial quality.

In terms of the effects of desegregation, we looked at the extent of knowledge that the New Castle County residents had about the desegregation plan, and we found that the degree of misinformation remained high and there was very little change over time in this. Parents, especially suburban parents before school desegregation began, predicted that there would be a decrease in achievement of white students.

A year or a little bit less than a year after desegregation began, they again said that they thought that there had been a decrease in the achievement of white students. Now one can compare that with the test scores and take opposing sides but in terms of the perceptions of parents, they thought achievement had gone down. Parental participation, especially among city parents, also appears to have decreased over that time period.

Racial attitudes, to the best that we could judge, did not change. They did not improve; they also did not show any increased antagonism.

In terms of flight, the fifth dimension we looked at, we found a number of things: One was, we did not find any black flight although a number of people had thought that there might well be some. In terms of whites, we looked at three different explanations for why people might be leaving the public school system.

One explanation was, as Mr. D'Onofrio pointed out, the "steam kettle" theory. In essence our conclusion was, the "steam kettle" theory held no water. We could not find differences between the parents who had pulled their kids out of the public schools and those who left them in, in terms of racial attitudes. I am not talking about overt racial prejudice, which is very hard to get anybody to admit to these days, but more subtle measures that have been used in our poll and elsswhere. We did find a difference here.

We did find that income and education were related to flight. Parents who had withdrawn their children were, in general, somewhat more likely to have higher incomes and more education, and also in fact to say that their children were doing well in school, than those people who left their children in school.

We also found that the parents who pulled their children out of school rated their schools differently than those who left them in. They, not surprisingly, were more negative.

Mr. EDWARDS. Dr. Raffel, I apologize for interrupting you at this point, but the subcommittee must recess for 10 minutes for a vote in the House of Representatives.

[Brief recess.]

Mr. EDWARDS. The subcommittee will come to order.

Dr. Raffel, you may continue.

Dr. RAFFEL. Thank you. We are used to changes in New Castle County.

I was saying that we had investigated three different explanations for why there was flight from the New Castle County schools.

I said that the "steam kettle" theory did not seem to explain much; our leadership theory, in terms of higher income and education, did. Also, experience at one's school did seem to have some effect on people withdrawing their children.

We also found, as importantly, I think, that parents did predict that they would switch their children, or to some percentage, from public into nonpublic schools. However, we also found parents saying that they would "probably" or "definitely" switch their children from nonpublic schools into public schools.

We concluded—and I think, I am sure, in fact, our conclusions have been borne out—that in New Castle County we do not have a two-tiered system, one public and one nonpublic. We have parents switching their children back and forth between the various alternatives in the county.

We also found, somewhat surprisingly, that parents were not as aware as we were by our poll that this switching was going on. That is, in general parents did know other parents who were thinking of switching their children from public to nonpublic schools. However, very few parents knew parents who were doing or thinking of the reverse, even though we had a fairly high percentage of them who were thinking of that.

It was our conclusion that at the time we did this poll the public schools, for want of a better word, were "out" and the nonpublic schools were "in" and you just did not talk about switching your kids back the other way.

I questioned a Federal official about why I was asked to testify. He said that I was one of the only researchers being quoted by both sides. I think that to the extent this is true, the reasons lie in the survey results I have summarized here.

Our results suggest that New Castle County desegregation and reorganization plan is neither a raving success nor an unmitigated disaster. On the negative side, we have documented a little white support for busing, negative feelings about the new county school district; the perception that white school achievement is suffering; and white flight.

On the positive side, we have agreement that the implementation of the plan went as well as could be expected, general satisfaction with teachers and schools after busing, an increased perception, even in the white suburbs that city schools, once black and now desegregated, are equal in quality to suburban schools, and a willingness and even expectation of return to the public schools.

Let me share with you briefly my own conclusions, going beyond the poll that now is somewhat dated, about the lessons of interdistrict metropolitan desegregation in Delaware, for those considering changes in national policy.

First, it is my belief that there is nothing inherent about the busing order in New Castle County that made it impossible to maintain quality schools or public support over time. Nor, on the other hand, is busing a panacea for a history of racial conflict in our State.

The order was definitely a major shock to the educational, political, social, and economic system of New Castle County and the State. It has been a true test of our ability to handle a change, and to date I believe that our State has done reasonably well. The impact of busing is not cast in stone; it is etched by the community that must face it, by public officials, school administrators, parents, students, community leaders, and I should add to my written comments, by politicians and elected officials specifically.

Second, the problems in the New Castle County School District today result in as large a measure from the school district reorganization difficulties as from mandatory pupil reassignment or busing. In this sense it is apparent, at least to me, that the gain that one might have in a metropolitan plan in terms of decreasing white flight may well be offset by the increase in administrative difficulties that result from an interdistrict plan.

Third, determining the magnitude and causes of white flight remains a diffcult task. Proponents and opponents of busing unfortunately have offered simple descriptions and explanations of a very complex situation. Some try to attribute all white enrollment loss to busing when in fact other factors like birth declines, migration from the Northeast, and movement to private schools, which appear to be national trends, have had a major but hard to quantify influence on enrollments.

When I think of this point, and when I make this point, I always think of the Delaware State senator who one night had a good deal of scotch and soda and got very drunk and very sick. A week later he had a good deal of bourbon and soda and got very drunk and very sick; and a week later he had a good deal of vodka and soda and got very drunk and very sick, and concluded he was never going to touch soda again.

We have a similar case here. One could look at a large loss in white enrollment, and there is no doubt that there has been a tremendous loss in the county, but to attribute all of that or even a substantial part to the desegregation order I think is to miss the boat.

To give you just the latest example we have, preliminary statistics on enrollments for this September indicate that the decline in enrollments in New Castle County are at about the 6.6 level compared to downstate Delaware which is at the 3.3 percent level. Now at the surface one could say, "Look, that 3.3 percent downstate is due to the birth declines and other national factors and the extra 3.3 upstate in New Castle County is the effect of busing." However, it turns out—to the extent I could do the analysis, we just got the figures—that this is accounted for by the birth rate and differences in migration into downstate versus into upstate. That is, the preliminary census figures indicate that in New Castle County there has hardly been any change in population since 1970 and in downstate there has been approximately a 20-percent increase in population. In part the number of births reflect that also.

In the book I have written about this case, I determined that in terms of anticipatory and first year white flight, that it would be possible for those opposed to busing to argue that almost all of the loss in enrollment was due to busing. However, I also found it would also be possible for those who were supporters of busing to argue that almost all of the loss was not at all due to busing but to national factors, as reflected in downstate Delaware and elsewhere. Therefore, I would suggest that interpreting the numbers that any of the three of us throw at you, one should really take great care when it comes to talking about white flight.

My final conclusion is that those who can influence national policy toward desegregation and busing should try to be wary of gross overgeneralizations about the harm or benefit of these policies. The effects of desegregation plans involving busing depend on many factors only partially understood, some of which are under the control of educational and governmental officials. For example, it is far from certain what the impact of the recent division of the county school district in New Castle County into four new school districts, one of which Dr. Johnson is superintendent. It is just unclear at this point what the effect of this division will be on white flight and parental confidence in the public schools in New Castle County.

Thank you.

Mr. **Edwards**. Thank you very much, Dr. Raffel. That is a very scholarly study and I can see why both sides would be inclined to quote you, selectively of course, as we all do from time to time.

Dr. Raffel, on page 4 in paragraph 3 you said that the impact of busing is etched by the community that must face it, by public officials, school administrators, parents, students, community leaders, and so forth. In this community affected by the busing order, did public officials, elected officials, school administrators, parents, and community leaders generally try to do the best they could in complying with the law, or was there a great resistance that got in the way of an orderly resolution or an orderly implementation of the plan?

Dr. **Raffel**. I would say that after some initial rumblings in the State legislature, there was never any doubt in Delaware that the law would be and should be obeyed.

Mr. **Edwards**. Dr. Johnson, would you respond with the same answer, that the public officials and other people in the area did the best they could to assist in the implementation of the order?

Dr. **Johnson**. Yes; that would be my feeling.

Mr. **Edwards**. Mr. D'Onofrio the same?

Mr. **D'Onofrio**. Yes, Mr. Edwards. It was obvious that it was a Federal issue and not a State issue. We antibusers did not expect Governor duPont to stand in the school doorway, and we knew that the General Assembly certainly could not stop a Federal court order, so I would say that would be true.

Mr. **Edwards**. Now Dr. Johnson, your perceptions on the impact of the school desegregation order are far apart from Mr. D'Onofrio's. How do you account for that?

Dr. **Johnson**. Probably, Mr. Chairman, mine are not really perceptions as much as actual involvement in the day-to-day operation. I am looking basically at the internal performance and the information that we have gathered over the 3 years of operation. I was not attempting to address the perceptions and feelings of the individuals with whom Mr. D'Onofrio had reference.

Mr. **Edwards**. Mr. D'Onofrio, prior to *Brown* v. *Board of Education*, did the children of New Castle County go to neighborhood schools?

Mr. **D'Onofrio**. No, sir. We had pre-Brown segregation in New Castle County. The schools in Wilmington were segregated and in the suburban area black students were bused, for example, black high school students were bused into the city to Howard High School, even though the number was very small. I think it was brought out during the court proceedings, for example, that the number of blacks bused from the county into Howard High School in Wilmington was less than 200, which gives you an idea of the Draconian aspects of the subsequent order many years later.

However, it is true we did in fact have segregated schools prior to *Brown II*. However, I might add that, as I pointed out in my testimony, the efforts to eliminate those schools after *Brown II* were in extremely good faith, and that was found by the district court. What we are talking about is racial balance busing and not, as I said, so-called desegregation.

Mr. **Edwards**. All right, so there was busing for purposes of segregation, and you had a truly——

Mr. D'**Onofrio**. Not busing.

Mr. **Edwards**. Didn't you have any busing for segregation?

Mr. D'**Onofrio**. You mean before *Brown II?* Yes. However, I would say busing was very limited. I do not have any figures at my disposal right now but the city of Wilmington, for example, was divided ethnically. The high school I went to, you had mostly Italian and Polish and Irish kids going to Wilmington High School. Another high school, P. S. duPont, contained a lot of the Jewish community, and a lot of the blacks lived on the so-called east side of Wilmington and they attended Howard High School, so I do not think there was much.

There was busing for purposes of segregation, especially, as I pointed out, in the suburban areas where you had a very limited number of blacks, but I would not call it a lot of busing for segregatory purposes prior to *Brown*. Perhaps Dr. Johnson might want to comment on that. I do not know.

Mr. **Edwards**. Yes. Dr. Johnson?

Dr. **Johnson**. I think the important aspect of the busing, transportation of minority youngsters, was the fact that for many years the high school that I attended, Howard High School, was the only black high school in the State of Delaware. In addition to those youngsters, my classmates, who were bused from suburban districts into the city of Wilmington, we had others from my own class who had to be transported from other parts of the State and moved into the city of Wilmington to go to high school.

Wilmington High School, which was a white high school, was very near the residence of many of my classmates. They were not bused on school buses. They came to school on public transportation or just walked. However, it was definitely not the neighborhood, it was all over the State, coming to one high school.

Mr. **Edwards**. After the *Brown* v. *Board of Education* decision, efforts were made at the local level, the State level, to desegregate, according to the testimony of Mr. D'Onofrio. Is that correct?

Dr. **Johnson**. Yes, sir.

Mr. **Edwards**. What did they consist of?

Dr. **Johnson**. I think the basic problem—and I am probably going to defer to our researcher here who retains that information—but the segregation took place within the city of Wilmington in the housing patterns, confining most of the minority students to the city of Wilmington, and nonminority students moving out made it very difficult to do that.

At the beginning of this desegregation order in 1978, Wilmington was in the high- or mid-80 percent range of minority students, with a school population of about 11,000 to 12,000 students, and some 80 percent of those students were minority. Therefore, that process could not continue. We could not desegregate the Wilmington schools with 80- to 85-percent minority students.

Mr. **Edwards**. I see.

Counsel?

Ms. **Cooper**. Thank you, Mr. Chairman.

Under the present desegreation plan, with students being bused from the suburbs for 3 years out of their 12 years in school, and students in the city being bused 9 years out of the 12, for the years when those students are not being transported, are they basically going to neighborhood schools, Dr. Johnson?

Dr. **Johnson**. To make a record, I think that we have probably closed in excess of 20 schools. I do not know the exact number. We just closed an additional nine schools in my single district this past year. I know we closed about 11 the first year, so we are probably talking about in excess of 30 schools that have been closed.

Many of those youngsters do not have schools that are right within their neighborhood, per se, and they are going to other schools that are nearby. Therefore, to answer your question, those who have schools near their neighborhood are probably going to those schools. In other situations they are going to schools that are nearby, but not in the city.

Ms. **Cooper**. However, they are going to the closest available school? Is that accurate for most of those students?

Dr. **Johnson**. That would be accurate for most of the students in that situation, yes.

Ms. **Cooper**. Given that fact, what is the source of the dissatisfaction? Since most suburban students for most of their school career do not get bused, do not get taken out of the closest school to their home, is it fair to say that busing is far less of an issue than the problems associated with the reorganization of all these school districts? Dr. Johnson?

Dr. **Johnson**. I am sorry. I am probably not the person to answer that question. Mr. D'Onofrio would probably be a better person to answer that question.

Ms. **Cooper**. OK. Mr. D'Onofrio?

Mr. **D'Onofrio**. I would say that we are not just talking about transportation. You asked the question of Dr. Johnson about the closest school, and as I pointed out, we started out with 103 and now we have 68 and all but one of the closings have been in the suburbs, so obviously kids certainly are not attending the schools that they would have attended previously.

For example, in what used to be my school district, Alexis I. duPont, which I refer to in my testimony, all four elementary schools in that former district are now closed, so the kids from the former Alexis I. duPont district who are still in public schools are attending schools that are somewhat farther away than they used to attend.

However, as has been pointed out, I think, by Dr. Raffel and by me, the issue is not just transportation; it never is. In that respect busing is a misnomer. The issue is a perception of what has happened to the quality of education. The issue among many of the people that I associate with, my colleagues, is a feeling of constitutional perversion, a feeling that the law has been distorted, a feeling that Government is doing something it has no business doing and has no business forcing upon people. It is all tied in together.

Ms. COOPER. The schools that are now being utilized, have they been significantly expanded in size or are the closings of the other schools a result of declining school enrollment?

Mr. D'ONOFRIO. It has to be declining school enrollment.

Ms. COOPER. Therefore, some schools would have had to be closed regardless of the desegregation plan?

Mr. D'ONOFRIO. I do not think too many schools were closed because they were poor physical specimens. Those that were, that fell into that category, I think were upgraded with the start of busing. I think the school closings have to be because of declining enrollment.

Ms. COOPER. Dr. Johnson?

Dr. JOHNSON. Yes. Prior to the implementation, many of the school districts were holding schools open that had student population down below 50 percent of the available utilization rate. They were building during the early sixties, just building new buildings almost everywhere in some of our suburban districts, and those schools continued to operate at 50 to 60 percent capacity since the day they were built. Because of our financial restraints, it was necessary to move the building utilization up into the 80-, 85-percent range. We could not afford to keep schools open with such small populations in the buildings.

Mr. D'ONOFRIO. I would just like to add to that that 14 schools, as I pointed out, were closed with the start of the order, and that compensated to a large extent, for what Dr. Johnson referred to. However, the fact remains that 3 years after this had been taken care of by the initial closings, more than 20 schools were just closing in this year, in 1981, and 45 percent of the kids had to be reassigned to correct the racial imbalance developing over 3 years.

Ms. COOPER. Well, if I could amend the hypothesis I made before—a question for all of you—is it a fair statement that much of the unhappiness, to the extent there is unhappiness in New Castle County about the school system, has to do with a combination of the loss and the closing of schools that are close to home, and the administrative problems and costs that have accompanied the reorganization of all these school districts, and that it is not directly related to either the concept of neighborhood schools or busing?

Mr. D'ONOFRIO. Administrative problems exist but I do not think the average citizen, the average parent is really affected that much by administrative problems, the nuts and bolts of running public education. Once again, my experience is that people are opposed to busing in New Castle County because it has been forced on them.

Just to give you an idea, just before busing was implemented my own antibusing organization lobbied for and got passage of a voluntary plan which enabled children from the majority black Wilmington district and the majority black suburban De La Warr district to transfer to schools of their choice. It was a tremendous success, given the short period of time that the kids had to transfer. Some 14 percent of the black enrollment of Wilmington and De La Warr transferred to suburban districts.

In the Alexis I. duPont district, in one of the middle schools that is now in Dr. Johnson's district, Alexis I. duPont Middle School, the school became over 30 percent black in 1 year due to just the voluntary transfers, and our youngest boy went to that school. I did not pull him out.

Therefore, it is a matter of being forced. It is a matter of people becoming aware, due in no small measure to the efforts of my antibusing group, of what has been done in the name of the Constitution. I will say it over and over again: I do not think you can divorce this from citizen attitudes on busing. You simply cannot do to Americans what the courts have done on this issue. That is all there is to it.

Dr. **Johnson**. I do think that the point that you are making or attempting to get an answer to is valid, that is, there has been a great deal of dissatisfaction with some of the personalities that were involved in the initial operation of the school district. Because of the unpopularity of the leadership and a lot of heat from surrounding areas, the superintendent who started the issue did not finish his contract, and that brought about a lot of dissatisfaction.

Just the unpopularity of moving from the area where the students were currently being housed into other buildings—because in some situations, students went to one-, two-, three-grade centers. Where a school had formerly been a K–6 school, within the suburban districts and the city districts, we made three-grade centers. We moved some students from their school in their suburban district to another school in the suburban district. That also brought dissatisfaction. Therefore, yes, I would agree with you in part that reorganization did bring about a lot of dissatisfaction.

Dr. **Raffel**. I would add something that I was told before we began this process, when I had just become staff director of this group that was set up to try to smooth the desegregation process, make it work a little bit better. I was told, and I think events have borne out, that desegregation, whatever its form, brings out all the warts in the system; all the problems come to the forefront.

Now, in a lot of cases or in most cases we would like to see those problems solved. For example, working-class white children who have not been receiving an adequate education in a segregated system, their problems may come to the forefront in the desegregation process. I think that is part of what happened in New Castle County. School closings, financial problems, administrative difficulties, all of those became much more evident as we underwent desegregation. We did not have the slack, you might say, in the system to tolerate all these problems.

Ms. **Cooper**. I would like to explore for a moment the gap that I see between perceptions and what we know from more objective, empirical evidence, particularly with respect to how the students are doing educationally in the desegregated school system.

We have had reports of test score increases, and just recently the subcommittee learned of a study that had been done by a group from Michigan State University which showed dramatic increases for whites and significant although lesser increases for black students in New Castle County.

Mr. D'Onofrio, you have chosen to characterize those results as inaccurate or spurious. Is there any kind of evidence that you would accept as indicative that there has in fact been an improvement in education or at least that there has not been a deterioration of educational progress in the schools?

Mr. D'ONOFRIO. Is there any evidence that I would accept?

Ms. COOPER. Well, what are you looking for?

Mr. D'ONOFRIO. I have not seen the Michigan State study but it has been my experience as a national antibusing leader that invariably when busing begins in a community they change the method of testing. What you are talking about can definitely be measured but I do not think there have been really good faith efforts and candid efforts to measure the effect of busing on the quality of education, and so I have to remain cynical of studies that come out. Invariably they are prepared by people who are unabashed advocates of busing, such as the Michigan State study, and on and on it goes.

If I saw figures that I would agree or realize definitely compared the postbusing results with prebusing results, then I would be inclined to believe them. However, I pointed out in Delaware—I may be wrong, I might stand corrected—but I believe only 1 of the 11 districts, for example, used the California achievement test. I am not sure about that. Of course, the State used it in its testing, I believe, but a lot of the districts did not.

As I said, when you find educators who say that the CAT's are the easiest to pass, I think it is difficult to compare postbusing results that are borne out by the CAT's and compare them with more stringent tests used before.

Dr. RAFFEL. The CAT was given as a pretest, I am trying to recall whether it was the spring before or the first month or so of school when busing began, so even though you are correct that the tests were changed and it was not the one used when there were districts, there was a prescore.

Dr. JOHNSON. The testing program was mandated by the State legislature and was put in place throughout the entire State, so although the testing was changed, it was changed and is under control of the State Department of Public Instruction. Our district cannot manipulate the scores because the whole State is scored, and that is by State law.

Dr. RAFFEL. However, on the other hand, the State as far as I know has not really done an analysis of those scores. I think it is clear that the scores keep getting higher but it is not clear in terms of any kind of State analysis of all the schools or all the children what the results are, that is, black versus white, for example.

In my own work, what I have seen of Michigan State's analysis is flawed in terms of their sampling procedures, so I have not seen the report yet but there may be some questions there about the representativeness of their results. However, there seems to be no doubt about increasing test scores.

Mr. D'Onofrio. I would like to make two points, if I might, with regard to the question of achievement. A colleague of mine, Dr. Ralph Scott, has just done a critique of various studies and coincidentally he determined the same thing, the same point that I just made about the Michigan State study, the fact that they show an increase in the gap between white and black achievement.

The second point is—and Dr. Raffel alluded to the whole busing controversy, bringing out the "warts," so to speak, involved in the educational process—this is true, and since this is the case, how much of the achievement gains can be attributable to people, educators, and public officials banging down, so to speak, on educators and making them get on the ball as far as testing is concerned? How much can be attributed to this as compared to the increases being as a direct result of busing?

Obviously, if these things were addressed in some school districts before busing started you would have had the same increase in test scores. Therefore, in this respect the matter of increased achievement under busing cannot be attributed to busing itself but is irrelevant to busing.

Ms. Cooper. Well, I do not think anybody thinks transporting children improves scores but it has been the testimony of earlier witnesses that it can be an impetus for making educational changes that can be positive.

Dr. Johnson. It definitely brings increased involvement of parents, and they look at the total picture. We are finding that the nonminority students are profiting from the same ancillary relief programs that were put into place for the minority students. That may be one of the primary reasons for the advancement of the nonminority students; they too are benefiting from the revised instructional programs.

Ms. Cooper. One last question on this: Dr. Johnson, as you pointed out, getting information about this study as well as earlier studies you alluded to, can help change opinions and remove erroneous racial perceptions. What is the school system doing to get the word out that, in fact, white parents' perceptions that academic performance is decreasing are not borne out by the data that you have?

Dr. Johnson. The State publishes the test results. All of the test results are now being published and I believe that many parents are beginning to take a good look at the information that is coming out and it is changing some of the perceptions. We are beginning to see a drifting back of some of the students who have gone to private schools, which may be an indication that some people are also hearing what is being said.

Ms. Cooper. Thank you.

Mr. Edwards. Mr. Boyd?

Mr. Boyd. Thank you, Mr. Chairman.

Mr. D'Onofrio, I am curious about the voluntary desegregation plan to which you made reference earlier. How long a period of time did this have to take effect?

Mr. D'Onofrio. The legislation was first passed, I believe, in 1976 but the kids only had, oh, just a few days—it was ludicrous—the kids only had a few days to make their decision, and so in 1976 there were few transfers. In 1977, the Department of Public Instruction embarked on a PR campaign, and I believe they actually sent people into Wilmington to encourage kids to transfer, and I believe that most or all of the school districts were very active in publishing information and sending out information to encourage kids to transfer.

From my viewpoint, if the constitutional violation was that black kids were locked into the city of Wilmington for various reasons, real or imagined, the remedy would be to unlock them. As I indicated, in 1977 this happened. Some 14 percent—which is a significant percentage—of black children transferred from the majority black district, the Wilmington district which was 80 percent black, and the majority black De La Warr suburban district which I believe was 54 percent black, 14 percent transferred to majority white schools.

Now the rub was in the eyes of the court and in the eyes of the educational establishment within the city of Wilmington, that Wilmington schools were not being "desegregated," in other words, the whites were not transferring into the city, which I think was irrelevant. Involved here was a self-aggrandizement and featherbedding type of philosophy by certain members of the educational community who did not want to see the Wilmington school district diminished in terms of enrollment, which affected State funding and so forth.

Getting back to the essence of the voluntary plan, black kids transferred after just a few weeks of being encouraged to do so. Now one of the problems was, and I can see this as being somewhat valid, that the black kids who transferred—I have no figures on this but the black kids who transferred were perceived as being from educationally oriented black families, which is perhaps one of the problems with voluntary plans. These were the ones that were transferred, including the children of several black leaders who were proponents of the court order.

However, I thought it was very successful. How successful it would have been if the court had accepted this remedy, of course, remains to be seen. We had not gotten into the concept of "magnet schools." They were being talked about but we had not gotten into that concept, even though it was to be part of the voluntary plan concept, we had not gotten into it.

Another interesting point is—and this is tied in with this whole ridiculous concept of racial balance—one of the so-called rubs against the voluntary plan was that in selecting schools to which they would transfer, blacks in fact did select schools. Certain schools took in a lot of black students, especially those contiguous to the city of Wilmington such as my school district was, and other school districts did not take in as many. Of course, you know, this upset the racial balance fanatics but once again, this is irrelevant.

If we are talking about equality of education, if we are talking about remedying the so-called effects of past segregation, about unlocking kids who were for various reasons locked into Wilmington, I think the voluntary plan was a rousing success. I do not have any percentages—perhaps Dr. Raffel might have—on the attitudes of people. I think his poll did touch upon that, the attitudes of people under voluntary desegregation.

Mr. **Boyd**. Dr. Raffel, what were the attitudes as you found them?

Dr. **Raffel**. I do not have the figures with me but there was widespread support for the voluntary plan. What we do have to remember, though, is——

Mr. **Boyd**. When you say "widespread," you mean in both the black and white communities?

Dr. **Raffel**. I believe so but, again, I have not looked at those figures in 3 or 4 years. That has not been the issue in New Castle County in a number of years. However, this was all in the context of mandatory plans hanging over everybody's head, so that it is hard to interpret the national implications of something like this, or even what would have happened if our community was not aware that a mandatory plan was right down the road.

I am not trying to belittle it. I think it is very significant that a large percentage of the black students were willing to switch into suburban schools but it is hard to interpret it.

Mr. **D'Onofrio**. I think it can be tied in with the national implications because poll after poll after poll shows that Americans are not opposed to desegregation, they are not opposed to the white children attending school with blacks but they are opposed to forced busing to force racial balancing. Poll after poll shows this.

Mr. **Boyd**. Yes. The minority children who attended, the 14 percent figure that you gave were presumably transported by bus, were they not?

Mr. **D'Onofrio**. Oh, yes. Transportation was provided by both bus and in some cases even taxis, which got kind of ridiculous. You had a couple of black kids, for example, going to a suburban school and it was pretty expensive. However, there was transportation.

Mr. **Boyd**. However, the transportation, regardless of numbers, was provided by the State. Is that correct?

Mr. **D'Onofrio**. True, and other parents, of course, no doubt some parents took their own kids to school.

Mr. **Boyd**. A previous witness, Dr. David Armor, suggested—and I would wonder whether, Mr. D'Onofrio, you would agree with him—that voluntary desegregation plans have not been given enough time and have not been given enough of a chance to be successful. You have indicated in the one year plus of your voluntary plan, some 14 percent of minority children transferred. Would you agree with his evaluation?

Mr. **D'Onofrio**. Voluntary plans got a bad rap, so to speak, in the earlier days in the South. I believe this was the substance of the *Green* decision, when the Court threw out voluntary plans. Of course, that was back in the late 1960's, and the point is that today Federal courts are still using the Supreme Court's rationale in *Green* as a basis for saying voluntary plans are no good. They just have not been given the opportunity to work, no doubt about it.

Mr. **Boyd**. Well, in the *Green* case only two classes were eligible to transfer.

Mr. **D'Onofrio**. Pardon?

Mr. **Boyd**. In the *Green* case only two classes were mandated to transfer; only the first and eighth grade classes in *Green* were mandated to transfer.

Mr. D'ONOFRIO. That does not make any difference. In *Evans* v. *Buchanan,* in the New Castle County case, the Supreme Court's language against voluntary transfers was specifically used as a basis for denying the voluntary plan in New Castle County.

Mr. BOYD. I understand that, Mr. D'Onofrio, but I am just trying to point out that in the *Green* case the mandated choice, the mandated choice of students was only applicable to first and eighth grade, which meant a lot of students who were attending neighborhood schools—and of course *Green* involved New Kent County, Va., which was a rural county with only two schools, one black and one white—students tended to stay where they were already attending school unless they were mandated to choose another school, which is why it was probably ruled down.

Mr. D'ONOFRIO. What is wrong with that?

Mr. BOYD. Nothing is wrong with that but I am just suggesting to you that one of the reasons why the New Kent County plan did not work was because students were not mandated to choose a school. They therefore did not choose at all and stayed where they were, with the result that there was no desegregation.

Mr. D'ONOFRIO. In the Delaware plan, the briefly implemented Delaware voluntary plan, students also were not mandated to choose schools. It was strictly voluntary.

Mr. BOYD. However, that was an urban situation as opposed to a rural situation.

Mr. D'ONOFRIO. It was a city-suburbs situation.

Mr. BOYD. Dr. Johnson, what is the average bus trip for a schoolchild in your district in terms of time?

Dr. JOHNSON. The time 30 minutes seems to ring a bell but I really do not have that answer. My district is somewhat more compact than some of the other districts. Dr. Raffel has a youngster who takes one of those trips, one of the longer runs, so he could probably answer that.

Mr. BOYD. Dr. Raffel?

Dr. RAFFEL. There is no quick and easy answer. One daughter goes to the Shue school, which is about 8 miles from my house; the second daughter I have goes into Wilmington, Bayard School, which is 17-18 miles. The daughter who goes to Shue has a shorter bus ride than the daughter who goes to Wilmington, so it depends a lot on the nature of the bus route and whole variety of other things. I think both of them ride longer than a half-hour, though, in my case, I live on the very edge of what was once the New Castle County District. I have never seen a figure of the average bus ride, either before or now.

Mr. D'ONOFRIO. Those figures are available. They were part of the remedy hearings in the court. Ironically, in going through my files I ran across them a couple of nights ago but I did not bring them with me.

Dr. JOHNSON. Some of the suburban schools are contiguous with the Wilmington schools. I have one school, the Wilmington high school, where the suburban students walk to the school.

Mr. EDWARDS. We will recess again for the same reason for a few minutes.

[Brief recess.]

Mr. EDWARDS. The subcommittee will come to order.

Mr. Boyd?

Mr. **Boyd**. Thank you, Mr. Chairman.

Professor Raffel, you have indicated, I believe, in your statistical study that the predominant concern among parents is the quality of education and the perception of danger in the school system. Is that a fair evaluation of your findings?

Dr. **Raffel**. Certainly the quality of education; I am not sure to what extent safety and danger is really the overriding issue now. It may have been as the plan was being implemented.

Mr. **Boyd**. Is danger or the presence of violence, Dr. Johnson, a problem in your district?

Dr. **Johnson** I think the fear of the unknown has been overcome and that——

Mr. **Boyd**. Pardon me?

Dr. **Johnson**. I think that the fear of the unknown, which was the perception of danger or violence, has been overcome and that is not a major issue now, although we are still dealing with discipline problems. I do not think that parents are now attempting to hold students out because of fear of danger or their welfare or safety.

Dr. **Raffel**. I found the statistic that I was thinking of when I reacted to your question. We asked parents who had withdrawn their children what were some of the concerns that were important to them, and which concerns were very important. The No. 1 thing was curriculum, religious instruction, et cetera, for people who withdrew their children before the plan began and it was also very high on the minds of people who did it during the year but the second biggest factor was discipline.

Discipline, it is hard to interpret that as a safety issue necessarily. Jumping away from the poll a little bit, my own experience would indicate it is more a concern for the effect of a disruptive classroom on learning within the classroom. The third factor is safety.

Mr. **Boyd**. Dr. Johnson, what has been done in your district to combat the perception of problems with discipline in the classroom?

Dr. **Johnson**. Currently under the new four-district concept, each of the individual districts is working on alternative school programs, in-house programs to remove disruptive youngsters from the classroom to improve the learning environment and——

Mr. **Boyd**. What do you do with them when you remove them? Where do they go?

Dr. **Johnson**. In-house type time-out rooms and programs within the building. Also we are currently working on an alternative location for youngsters who have been very disruptive but it will still be within the school setting.

Mr. **Boyd**. I have one more question, thank you, Mr. Chairman.

Professor Raffel, you have indicated that your studies have shown that forced busing has not necessarily resulted in a decrease in racial tensions or racially prejudiced attitudes. Is that correct?

Dr. **Raffel**. Yes.

Mr. **Boyd**. Does that refer to white racism against blacks or black racism against whites, or both?

Dr. **Raffel**. As I remember, both. There are essentially no changes over time in the attitudes of the groups toward each other, to the extent we measured that.

Now I understand in the Michigan State study, they found some more negative results after the first year and they may have gone into it in more depth than we did.

Mr. **Boyd**. To what extent was that feeling an outstanding feeling when the busing plan began? In other words, what has not changed? Was there previously a high degree of racial prejudice present in the school system on both sides?

Dr. **Raffel**. Actually at one point we worked a little bit with Michigan State on doing a survey, and they had a number of items that I would call measures of overt racial prejudice. I do not remember them specifically but they were like, "I prefer not to have a black person or a member of another race living near me," questions like that. We threw out those questions because we could not identify anybody who agreed with statements like that, so we used——

Mr. **Boyd**. I beg your pardon? You did not find——

Dr. **Raffel**. We did not find people who would agree on a poll, on our pretest of the poll, with statements of overt racial prejudice, so we did not use those questions at all in our later polling. However, the ones that we used that were even close, we found virtually nobody who would agree with those statements.

We did use measures that have been used by others to measure what at least two researchers have called symbolic racism, and those items refer more to notions like, "Blacks are too influential in Government." It is more of an indirect measure, perhaps, of prejudice. On those measures, again, we found no change over time.

Mr. **Boyd**. However, were those questions presented without reference to race? In other words, were they couched in terms of white prejudice against blacks, or were they couched in terms of black prejudice against whites, or were they couched in terms of prejudice generally? The examples you have given represent white prejudice against blacks.

Dr. **Raffel**. I do not recall offhand an item that we used that would measure black attitudes on whites but I think it is my memory that fails me rather than one of our surveys. However, at this point I do not remember that we asked blacks that question in 1979.

Mr. **Boyd**. Wouldn't that have been relevant?

Dr. **Raffel**. Yes.

Mr. **Boyd**. Mr. D'Onofrio, do you have any comments on what has been said by the other two witnesses?

Mr. **D'Onofrio**. Just a couple of comments on the matter of discipline and the alternative programs. Invariably across the Nation there are complaints by black leaders and civil rights groups that a disproportionate number of blacks are suspended or expelled under school discipline programs.

I am looking forward to the success of the alternative program that Dr. Johnson referred to. However, I think this is relevant, that once again we have the specter of the Federal judiciary. They had such a program in Florida—and as you know, decisions by lower Federal court judges are often used as a national precedent—and we had the Legal Services Corporation in Florida go into court to stop such a program, a program of alternative schools for discipline cases where they would have a more structured curriculum, a smaller class size, and so forth to help these kids assimilate, if you will, into the system. The Federal court threw it out because a disproportionate number of blacks were being "dumped" into the program. I sincerely hope that does not happen in New Castle County.

Mr. BOYD. Dr. Johnson, have comments like that in the press caused you problems in evaluating your systems for dealing with disciplinary problem children?

Dr. JOHNSON. It has not caused us problems but it certainly has sensitized us to the need to insure that we do not "dump" students into the program and that the programs do in fact become meaningful programs that serve the needs of the students that we identify, regardless of race.

Mr. BOYD. Thank you.

Thank you, Mr. Chairman.

Mr. EDWARDS. Thank you, Mr. Boyd.

Dr. Raffel, a few moments ago you referred to religious instruction. What percentage of the private schools are parochial or religious schools, run by churches or religious organizations?

Dr. RAFFEL. What percentage of the schools or what percentage of the students in the schools?

Mr. EDWARDS. No, what percentage of the schools are operated by religious organizations or churches?

Dr. RAFFEL. I could look it up but I do not know.

Mr. EDWARDS. Are we talking about 60 or 70 percent, like in Washington?

Dr. RAFFEL. The percentage has changed over time. I was looking at the numbers last night and the percent of—well, at least the percent of children in private as well as parochial schools has gone up in New Castle County since desegregation began. There has been very little change in the number of pupils in parochial schools, religious schools, but there has been a major increase in private or at least what the State considers private schools.

Mr. EDWARDS. Well, many private schools are run by churches.

Dr. RAFFEL. That is why I am trying to find——

Mr. EDWARDS. Mr. D'Onofrio?

Mr. D'ONOFRIO. Congressman, I would say that an overwhelming majority of the applicable nonpublic schools were religious for this fact, for this reason: Most of the traditional private schools in New Castle County are very elitist and the tuition is prohibitive. I can think of four of them offhand; the tuition is prohibitive. There have only been a couple, I think three to my knowledge, nonreligious affiliated private schools started since, so I would say in regard to the area that you are talking about virtually all of them are religious schools, a lot of which of course are Catholic, parochial schools.

Mr. EDWARDS. Thank you.

I wish that you, Dr. Johnson, would look in a crystal ball. What is going to happen, say, 5 to 10 years down the road? What is the picture going to be in New Castle County? I think we have to assume that there will be no change in the laws or in the Constitution. I think that is pretty clear. What do you think is going to be the picture in New Castle County 10 years down the road?

Dr. JOHNSON. Mr. Chairman, my true assessment based on what I am beginning to see right now, with the reorganization into the four districts, with parents in general beginning to support the districts, if we can continue to maintain and move in the direction in which we are moving now we will find that desegregation as an issue will not be an issue in New Castle County in 10 years.

I have just been talking, Dr. Raffel had indicated that in our recent meetings we are now hearing parents asking about education issues, and getting involved in the district in supporting education. If we can continue that trend I would say that 10 years from now, even within the next 3 or 4 years, desegregation will not be an issue in New Castle County.

Mr. EDWARDS. Mr. D'Onofrio?

Mr. D'ONOFRIO. I would like to insert this point: During these 7 years of turmoil, I think it is well known that middle-class white families have been subjected to sort of a tightening of their budgets. I would say that if more people could afford to withdraw their children from public schools, they would.

Now in terms of the long-term picture or the relatively short-term picture, if by some miracle we should solve some of the economic problems in this country and middle-class people had more dollars available, I would say this would contribute to an increasing withdrawal from public education, especially in an area such as New Castle County which is highly middle to middle-middle class.

Mr. EDWARDS. They will send their children to private schools that are underfunded, without good athletic programs, with all of the problems that most private schools have?

Mr. D'ONOFRIO. They are doing it, Congressman.

Mr. EDWARDS. Pardon?

Mr. D'ONOFRIO. They are doing it already.

Mr. EDWARDS. Well, do you still think that in 10 years, that some of the things that have happened in other communities like in Charlotte, N.C. and elsewhere will not happen in New Castle County?

Mr. D'ONOFRIO. What is that, Mr. Chairman?

Mr. EDWARDS. What is so different about New Castle County? Why are things so much tougher there than in other parts of the country where desegregation has really worked very well? In certain parts of the country, like Charlotte, busing has worked pretty well.

Mr. D'ONOFRIO. Well, Congressman, respectfully I would have to disagree with you there, but I would say one of the major differences in New Castle County is socioeconomic. I think that it is a relatively affluent area and I think that that is one of the reasons why there has been so much dissatisfaction, because people have the wherewithal to express their dissatisfaction by withdrawing their children from public schools.

In other areas, I do not know that much about Charlotte-Mecklenburg but I would say the county as a whole—I do not want to knock anybody in other parts of the country—I do not think they would be as affluent as the people in New Castle County are.

Mr. **Edwards**. Thank you.

Dr. Raffel, would you mind looking down the road into the future and tell us what it is going to be like in New Castle County in 10 years?

Dr. **Raffel**. One thing that is happening now is, Delaware and New Castle County is becoming less affluent. Look at the latest census statistics. Therefore, we might take that into account.

It is very hard to predict because we are, I believe, at a crossroads right now, and I have been quoted saying that elsewhere. I think now with the four districts there is a tremendous surge of public hope and confidence in the schools. Most people want their public schools to be good; even people who put their children in private or parochial schools want to have that public school alternative and they are waiting to see what happens.

The likelihood is, in my view, that at least three of the four districts will succeed. There is one district where there is a great amount of concern because the people are more affluent, the whites are more affluent, and there is a great increase in the percentage of black children in that district. It is unclear if we will get over what some people call the "tipping point," and if that district will have greater problems than the others.

We have some big problems ahead, one being funding. The tax rate in New Castle County was not leveled up and the teachers' salaries were leveled up to essentially the highest salaries in the county. Until we resolve problems like that, it will be hard to be certain of a happy or at least a modified happy ending.

Mr. **Edwards**. How much do you spend per student per year in New Castle County, Dr. Johnson?

Dr. **Johnson**. I do not have that information, Mr. Chairman, but I will get that information to you.

Mr. **Edwards**. Is it the national average, $1,700 or $1,800 or something like that?

Dr. **Johnson**. Much higher.

Dr. **Raffel**. We are higher than the national average.

Mr. **Edwards**. Ms. Cooper?

Ms. **Cooper**. Dr. Raffel, your research on attitudes is very enlightening on the issue of how parents rate the school system: The closer they get to their own experiences and the experience of their children, the more positive they are. I wonder whether that phenomenon can also be applied to attitudes about busing?

Your survey indicates an extensive degree of dissatisfaction with busing, both with suburban, primarily white parents and urban, primarily minority parents. However, in light of the fact that most suburban children at any particular time under your 9/3 plan are not being bused, can that information about attitudes be further refined so that we know whether or not parents whose children are actually participating in a busing plan at that time that they are polled feel less anxiety and less dissatisfaction with the process than those who have kind of anticipatory dissatisfaction based on rumor or the experience of others?

Dr. **Raffel**. The short answer to your question is "yes," that could be done. The longer answer is, that is one of a number of things that we could do and have not done. Dr. Morstain and I have applied to the National Institute of Education to do another poll, and to try to bring to bear more resources than we have been able to, to follow up questions like that. We have a very large amount of material and information, and it is not that simple just to pull out a question like that to give an answer.

Ms. Cooper. Well, would you expect the nonparticipation of a white student to negatively influence the attitudes of his or her parents?

Dr. Raffel. Yes. In fact, we have recommended to the State school board and the New Castle County administrators, after doing this poll, that they try as much as they can to involve people in the public schools, even if it is just having the kids on stage singing Christmas carols. We thought that, given our results, the more that parents came into the school, the better their attitudes would be toward the schools, at least as far as we could tell, given our analysis.

Ms. Cooper. Would you also expect that the disproportionate number of years that city children are bused, 9 out of 12, influences or is a cause of the negative attitude of a majority of the minority parents in the city?

Dr. Raffel. It certainly is a major contributing factor. We have not been able to determine why some blacks are opposed and some are in favor. We have looked at that question in a variety of different ways and have not been able to explain that, so I am reluctant to say that a majority of the feeling is because of that particular factor.

There are other factors like change, merging with the suburbs, feelings that we can run our own school system. The Wilmington school system was led primarily by blacks of Wilmington and there was a great feeling that their leadership should be continued and not changed by the court order. Therefore, it is very complex and I am not sure.

Ms. Cooper. Mr. D'Onofrio?

Mr. D'Onofrio. With regard to the attitudes of suburban parents because of the 9/3 plan, all you are talking about, of course, is transportation and the number of miles or minutes involved in busing. The fact is that all the schools are racially balanced, and the point is that the problems in the schools themselves—as far as curriculum, as far as discipline, as far as perceptions of the educational process—are the same in all schools regardless of whether your kid is being bused into the city for 3 years or attending a school close to your suburban home for 9 years. Once you get past the matter of transportation, then I do not think your question is all that relevant.

Ms. Cooper. Well, others who have spoken out against desegregation plans have focused on the transportation issue and have claimed that they were not against the actual desegregation of the classroom. That was the least of their concerns but what you are saying seems to suggest otherwise, that it is not the transportation so much as——

Mr. D'Onofrio. What happens at the end of the bus ride, and that phrase not only includes the 3 years that a suburban child might be bused into inner city schools but it also includes the 9 years in his own so-called—the school closest to his home. As I say, the schools are racially balanced, and the curriculum problems and the discipline problems are exactly the same whether you are talking about a Wilmington school, a racially balanced Wilmington school, or a racially balanced suburban school.

Ms. COOPER. Therefore, you would not be happy with a desegregation plan if, let's say, it was feasible, that involved only redrawing of attendance zones so as to achieve racial balance?

Mr. D'ONOFRIO. You cannot achieve a racial balance by redrawing attendance zones if you maintain the neighborhood school concept.

Ms. COOPER. Well, in some——

Mr. D'ONOFRIO. You know, this is falsehood. You could have redrawn attendance zones in New Castle County and the effect on the racial balance of noncontiguous schools would have been miniscule if you still use the neighborhood school concept. If you are talking about redrawing attendance zones and then having mandatory assignments to create racial balance, that is one thing.

If you are just talking about redrawing attendance zones in a neighborhood school concept, you are not going to have much effect at all. In New Castle County, if they just eliminated all the school district boundaries, all of them among 11 districts, and continued to assign kids on the basis of neighborhood, the only schools that would be affected would be schools that were contiguous with the city of Wilmington.

It would not have affected, for example, the Newark district where Dr. Raffel lives which was 12 to 15 miles away, if they just changed the attendance zones. You are not going to achieve racial balance by doing that.

Ms. COOPER. Dr. Johnson, as part of the court order in New Castle County the State was required to provide money for a variety of educational programs to overcome the effect of segregation and to prevent desegregation. The court order lists a number of programs including curriculum changes and training programs and human relations programs, and so forth and so on. To what extent has that part of the order been implemented?

Dr. JOHNSON. All parts of the order have been implemented. We received assistance through ESSA title 7 originally—it is now title 6—and we were able to put in reading teachers. We had some math labs. We had human relations specialists, and each component of the court order has been implemented.

Ms. COOPER. I have no further questions, Mr. Chairman.

Mr. EDWARDS. Well, all three witnesses assisted us in making a very good record today. We learned a lot from you. You are excellent witnesses, and we thank you very much.

Mr. D'ONOFRIO. Thank you, Mr. Chairman.

Mr. EDWARDS. The subcommittee stands adjourned.

[Whereupon, at 11:50 a.m., the subcommittee recessed, to reconvene at the call of the Chair.]

SCHOOL DESEGREGATION

WEDNESDAY, NOVEMBER 4, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to call, at 1:30 p.m., in room 2237, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Kastenmeier, Lungren, and Sensenbrenner.

Also present: Janice E. Cooper, assistant counsel; and Thomas M. Boyd, associate counsel.

Mr. Edwards. The subcommittee will come to order and I recognize the gentleman from Wisconsin, Mr. Kastenmeier.

Mr. Kastenmeier. Mr. Chairman, I ask that the subcommittee permit coverage of this hearing in full or in part by television broadcast or radio broadcast or still photography, in accordance with committee rules.

Mr. Edwards. Without objection, it is so ordered.

Well, today we're going to look closely at the school desegregation experience of still another community, the city of St. Louis and its surrounding suburbs.

The schools of the city of St. Louis were first segregated by law and after *Brown* remained segregrated by virtue of governmental action and inaction. The problem of alleviating this racial isolation has been aggravated by the present demographic realities—most schoolchildren in the city are black, and in the suburbs, they are mostly white.

The solutions St. Louis has suggested and applied to this dilemma can, I believe, provide us with important lessons relevant to similarly situated city school systems. Likewise, the creative and effective educational changes that have accompanied the desegregation plan are most instructive.

We are pleased to welcome first our colleague from the 10th Congressional District of Missouri, Congressman Bill Emerson, whose district includes Jefferson County, Mo. That county adjoins St. Louis County, and has been suggested by some for inclusion in an interdistrict desegregation plan.

Mr. Emerson, we are pleased to welcome you and you may proceed.

TESTIMONY OF HON. BILL EMERSON, A REPRESENTATIVE FROM THE STATE OF MISSOURI

Mr. EMERSON. Thank you, Mr. Chairman. I want to thank the committee for this opportunity to review the issue of forced busing as a means of achieving racial balance in our Nation's schools.

Mr. Chairman, before I proceed any further, I want to make very clear my reason for appearing here today. I am not here merely to tell you that I am opposed to forced busing for the sole purpose of desegregation. Within hours of taking office in this distinguished body, I made my feelings on this issue known by introducing a constitutional amendment to prohibit forced busing once and for all. And since that day last January, my record has continued to be one of strong opposition.

No; I am not here merely to tell the committee that I am personally opposed to forced busing. I am here, Mr. Chairman, to tell you why I have taken that position, and to tell you that my feelings are not only my own, but those of the overwhelming majority of the people that I represent in the 10th District of Missouri.

Roughly, one-fourth of the people in my congressional district reside in Jefferson County, a county which adjoins St. Louis County on the south. Despite their proximity, they are very different. Jefferson County's soul is rural and its basic orientation is to small towns, townships, and identifiable communities.

It is true that many who live in Jefferson County work in St. Louis, often out of necessity, rather than choice. But that is a matter of the employment opportunities and choices available to a mobile work force.

For 9 years now, Jefferson Countians have watched with growing anxiety as the St. Louis area school systems have become embroiled in what is today a very painful and bitter court dispute over the question of forced busing.

Since early last year when the Court of Appeals ordered that the St. Louis Board of Education devise a desegration plan for use in the upcoming school year, this battle has dominated all other local issues in the minds of the people and in the pages of the newspapers. In the course of this litigation, outlying counties, such as my home county of Jefferson, have been held liable for the racial imbalance that exists in the inner city, and are now considered to be a part of any ultimate solution, if that solution is to be forced busing.

Mr. Chairman, I am thankful to say to you that to this day, not one young child in my district has been forced to travel several hours a day to attend a St. Louis school, and likewise, that no inner city youth has been forced to leave his or her familiar neighborhood to attend a school in Jefferson County.

However, the history of forced busing as a means of achieving school desegregation as interpreted and implemented by Federal courts allows no comfort in that fact. As in virtually every other city in the Nation, population shifts and the natural growth of certain areas make it inevitable that the day will come when children in Jefferson County will be included in any desegregation plans that achieves the desired racial balance.

It is that inevitability that brings me before this committee today. As I said, to date forced busing is not a reality in my congressional district. Yet, Mr. Chairman, there is no single issue that is creating more anxiety and more public outcry than does this issue.

Since the day that I took office last January, hundreds of concerned citizens—parents—in my district have written to urge that this threat be removed, and hundreds more have spoken to me personally. On the other hand, I have received two appeals from 10th District residents to support this practice. Likewise, the most recent poll that I have seen showed that three out of every four St. Louis area residents are opposed to forced busing, including almost 60 percent of the blacks that were surveyed. Nationwide polls have shown the same overwhelming opposition; and, Mr. Chairman, I cannot, as an elected representative, ignore the overwhelming evidence that the American people simply do not want forced busing.

I could use my time today to tell the reasons forced busing has not worked, and its costs in terms of energy, tax dollars and human emotions far outweigh its benefits—benefits that have yet minimally, much less adequately, been proven.

However, those facts are not new to this committee, nor to the members of the House of Representatives. The arguments pro and con have been laid before us time after time, and to many, the evidence is conclusive.

The time has come, Mr. Chairman, when this Congress must decide whether the question of forced busing should remain in the hands of the judiciary, which is by design insulated from the will and emotion of the people, or whether it will be answered not as a legal question, but as a public policy question; answered not by Federal judges, but by the American people and their elected representatives.

As one who has witnessed the anxiety of parents who fear the prospect of having their children miles away to schools in unfamiliar neighborhoods, beyond the reach of the parents in case of emergency, where parents of transported students don't elect the school board, don't pay taxes, and thus have no voice in the school where their children would be sent, I believe that denying them the opportunity to act upon that anxiety is a grave disservice. That is why I have given my strongest support to a constitutional amendment to prohibit forced busing, and why I call on this committee to allow this question to be answered through the legislative process, rather than allowing it to survive unsatisfactorily unanswered in a tangle of Federal litigation.

In conclusion, Mr. Chairman, the issue before us is not whether inequality in education exists. It does, in many cases. Nor is it an issue of race. No, it is an issue of whether or not a solution that has been tried has worked. After years of battle that has torn communities apart, distracted student and educator alike from the task of learning, and resulted in real benefits for no one but lawyers and private schools, I think the people have seen enough to make their decision. If given the opportunity, I believe the people through their elected representatives will agree with me that forced busing is an idea whose time has never come and never will, and that the time has come for us to seek solutions to the problems of discrimination that don't tear down our education system in the process.

Thank you, Mr. Chairman, that's the conclusion of my statement and I would be glad to try to answer any questions, if you have any.

Mr. **Edwards**. Well, thank you very much, Mr. Emerson. I recognize the gentleman from Wisconsin, Mr. Kastenmeier.

Mr. **Kastenmeier**. I have no questions.

Mr. **Edwards**. The gentleman from Wisconsin, Mr. Sensenbrenner.

Mr. **Sensenbrenner**. I have no questions.

Mr. **Edwards**. Mr. Emerson, in your last sentence, you say, "The time has come for us to seek solutions to the problems of discrimination that don't tear down our education system in the process." Do you have some solutions that you could help the committee with?

Mr. **Emerson**. Well, I am not all-wise, Mr. Chairman, and I wish I had some panacea that I could offer. But it certainly seems that the money that is being spent on busing could be directed toward improving the quality of education, perhaps through improved teacher salaries or better schools or better books or what have you.

Mr. **Edwards**. But I'm sure you do favor an America where efforts are made so that we don't have just black schools and white schools?

Mr. **Emerson**. Indeed I do, and I don't argue the point at all that there is discrimination and we should make every effort to correct that. But I don't believe that the forced busing of school children is the proper solution.

Ms. **Cooper**. Mr. Emerson, do you favor voluntary inter-district transfers between city and county in certain individual cases?

Mr. **Emerson**. You mean, if individual students elect to go into the city, and students in the city elect to come to the county? I personally would have no objection to that. And I'm sure that there are probably reasons in which certain individuals might even find that necessary. It's the forced aspect of the thing that I am opposed to.

Ms. **Cooper**. Do you think the city and the State and the counties ought to provide financial support for this kind inter-district transfer?

Mr. **Emerson**. I don't know. I would have to see a particular set of facts. I know that in Missouri one scheme has been put forth that if people do voluntarily participate, half of their college education will be paid. That is not a solution that I favor. There have got to be better solutions than just another drain on the Treasury.

Ms. **Cooper**. It's also been suggested that both the sending and the receiving district get compensated for that pupil to eliminate the disincentive for the sending district, to not let their students transfer out.

Mr. **Emerson**. Well, I'm sorry. I don't really understand your statement.

Ms. **Cooper**. Well, if a district loses a pupil to another district they don't get their allotment that they normally would get from the State and it's been suggested——

Mr. **Emerson**. You mean if they voluntarily transfer out——

Ms. **Cooper**. Yes.

Mr. **Emerson**. They don't get——

Ms. **Cooper**. And I believe that in the Milwaukee area, both districts, the sending and receiving district, get financial credit for that student in order to provide incentive for those kinds of transfer.

Mr. **Emerson**. I don't really think that you're going to offer incentives that are going to bring about the balance that perhaps you're suggesting. I don't know what the proper balance is, and I don't think that's the point. I'm saying I would favor students being able to go to school in the city or city students being able to come out into the county in a situation based on their individual needs and requirements and I imagine that some of this probably does take place. What I'm saying is that it's the forced aspect of the thing that I have great objection to.

Ms. **Cooper**. When you suggest that there's no evidence that desegregation plans have worked, what kind of evidence would you look to to support a conclusion that it has not worked?

Mr. **Emerson**. Well, that the quality of the schools and of the education received, and ultimately in the learning scores of the students have improved. And based on the material that I have read, the indications are that it has not and that the disruption in many communities, particularly two that come to mind are Louisville and Cleveland, is that there has just been a massive outflux of people participating in the public education process, that we're driving into private schools at great personal cost to them because they are concerned about the quality of education.

Ms. **Cooper**. Thank you, Mr. Emerson.

Mr. **Emerson**. Thank you.

Mr. **Edwards**. Mr. Boyd?

Mr. **Boyd**. Thank you, Mr. Chairman.

Congressman, how large is Jefferson County?

Mr. **Emerson**. Roughly 150,000, I think. By the 1980 census we were 147,000.

Mr. **Boyd**. How many square miles?

Mr. **Emerson**. I think we're about 580 square miles. Let me check that and give it to you for the record.

Mr. **Boyd**. Thank you.

If students in your county were to be bused to metropolitan St. Louis, how long a bus trip would that be?

Mr. **Emerson**. Well, it would depend on from where in the county they were being bused. It could be as much as 2 hours or as little as, I suppose, one-half hour. If they were in the northern part of the county the ride to the inner city would be about one-half hour. If they were from the southern part of the county, it could be as much as 2 hours.

Mr. **Boyd**. Each way?

Mr. **Emerson**. Each way.

Mr. **Boyd**. Thank you.

Mr. **Edwards**. One last question, Mr. Emerson. I believe we're going to have testimony today that would indicate that the desegregation efforts in St. Louis itself, combined with a certain amount of busing, is working. Is it your testimony that it's not working in St. Louis?

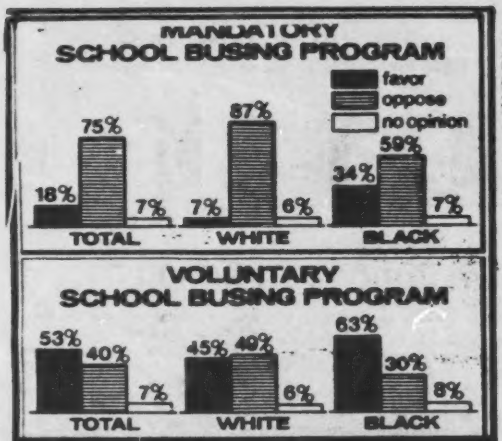
Mr. **Emerson**. Well, I wouldn't speak to the technicalities of it working. I mean to whether or not the children are picked up on time and delivered to school and get home; that I wouldn't comment on. I know it is not a popular thing in that the general public attitude and feeling is that there's been great disruption, that there's been significant—outstanding, I would say—abiding of the law, but it is not a happy situation.

Mr. **Edwards**. Well, thank you very much. We appreciate your coming here.

Mr. **Emerson**. Well, thank you. I appreciate the opportunity to be here. Mr. Chairman, if I may, I would like to submit for the record the poll that I referred to from the St. Louis Globe-Democrat of February 5.

Mr. **Edwards**. Without objection, it will be included in the record.

[The material follows:]



Integration yes, busing no, St. Louisans say

FEB 6 - 1981

By JACK FLACH
Globe-Democrat Political Editor

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By an overwhelming margin, residents of St. Louis favor integrated schools, but blacks and whites alike are staunchly opposed to mandatory busing of children to achieve that end, a Globe-Democrat-KMOX-TV poll shows.

A majority of city residents, however, favor some sort of voluntary system to integrate city schools.

Mandatory busing, such as has been ordered here by the federal courts in the city school desegregation case, is opposed by 75 percent of those interviewed, with only 18 percent favoring it and 7 percent having no opinion.

Blacks oppose mandatory busing 59-34 percent, with 7 percent having no opinion. Whites oppose busing 87-7 percent, with 6 percent having no opinion, the poll shows.

PEOPLE WITH children are even more opposed to mandatory busing, blacks by a 64-28 percent margin with 8 percent having no opinion, and whites by a 94-3 percent margin with only 3 percent having no opinion.

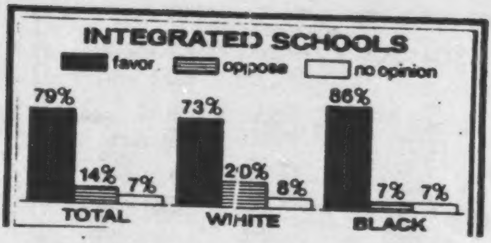
The question asked was, "Do you favor or oppose a mandatory busing program to achieve racial integration of public schools?"

Overwhelming opposition was prevalent among all groups interviewed. Seventy-two percent of those younger than 50 are against mandatory busing, and 80 percent of those over 50 are opposed to it. Seventy-two percent of males and 78 percent of females oppose it. Seventy-one percent of those making less than $15,000 a year oppose it, as do 78 percent of those making more than $15,000 a year.

Globe-Democrat
KMOX-TV
POLL

BUT 78 PERCENT of those polled said they favor integration of public schools — "having children attend school with children of another race" — with 14 percent opposing it and 7 percent having no opinion. Broken down by race, whites favor integration

Continued on Page 8A



Integration yes, busing no

Continued from Page 1A

73-20 percent, with 8 percent having no opinion, while blacks favor it 86-7 percent with 7 percent having no opinion.

The question asked was, "Do you favor or oppose having children attend school with children of another race?"

A majority of city residents, 53-40 percent, favor a voluntary busing program to achieve integration in public schools in the city. Seven percent have no opinion.

HOWEVER, A narrow margin of whites, 49-45 percent, opposed any kind of voluntary school busing in the city, while blacks favor a voluntary system 63-30 percent. Six percent of whites and 8 percent of blacks had no opinion.

Mandatory busing between the city and county is heavily opposed by black and white city residents, 72-19 percent, with 9 percent having no opinion. Blacks oppose mandatory city-county busing 58-33 percent with 10 percent having no opinion, while whites oppose it 83-9 percent with 8 percent having no opinion.

Sixty-seven percent of those polled said they oppose busing because it "means many students would have to attend schools in other neighborhoods," compared with 29 percent who disagreed with that reason. Four percent had no opinion.

BLACKS SAID this was a major reason, 50-45 percent, with 5 percent having no opinion, and whites agreed, 80-16 percent, with 4 percent having no opinion.

A plurality of those polled, 49-42 percent, said they favored integrating public schools according to some guideline or quota system.

But whites opposed this 55-35 percent, with 10 percent having no opinion. Blacks favor a guideline or quota system for integration, 67-24 percent, with 9 percent having no opinion.

FEB 5 - 1981

The poll was taken Jan. 23-26, with results based on a telephone survey by Market Shares of Chicago, a leading Midwestern polling and research firm. All figures were rounded to the nearest decimal.

A total of 644 blacks and whites were interviewed throughout the city. There were 281 blacks and 363 whites, representing a proportionate breakdown in the black-white population in St. Louis.

NEXT: What are the main issues in city government that most concern St. Louisans? Find out in Friday's Globe-Democrat and on KMOX-TV's 10 p.m. Thursday newscast.

Mr. **Emerson**. Thank you.

Mr. **Edwards**. We had expected to have our colleague, Congressman Bill Clay here to introduce the next two witnesses, but he is unavoidably detained, and so I am going to read what Congressman Clay would have said: "Robert D. Wentz has been the superintendent of the St. Louis public schools since 1975. Prior to that, Dr. Wentz held positions as a public school teacher, principal, and assistant superintendent and superintendent in communities in Mississippi, Illinois, Indiana, and California. St. Louis is now the beneficiary of his nationally known skills as an educator and an administrator."

Marjorie Weir is the immediate past president of the school board of the city of St. Louis. She continues to serve on that board as a regular member. She is also a former public school teacher and the parent of two children in the St. Louis Public Schools.

Dr. Wentz and Mrs. Weir have played decisive roles in charting the course of desegregation in St. Louis. Thanks to their leadership, desegregation has not only been advanced, but it has occurred peaceably with considerable public understanding and support and with creative and effective educational changes that have improved the quality of education for all."

It's a pleasure to welcome Mrs. Weir and Dr. Wentz. Without objection, their full statements, together with their attachments will be made a part of the record.

[The prepared statement of Mrs. Marjorie M. Weir and Dr. Robert E. Wentz follows:]

STATEMENT OF MARJORIE M. WEIR AND DR. ROBERT E. WENTZ

INTRODUCTION

As some of the members of this committee may be award, the St. Louis Public Schools last year implemented one of the more successful desegregation programs in the history of school integration. Both of us, Robert E. Wentz, as Superintendent of Schools, and Mrs. Marjorie M. Weir, at that time Vice President and later President of the St. Louis Board of Education, have been in unique positions to both participate in and observe that process. Essentially, our testimony makes several assertions: that St. Louis still feels the impact of once-legally mandated segregation and must struggle to overcome it; that determined and constructive leadership can produce positive results in that effort; that desegregation can be the occasion for making necessary and desirable changes toward improvement of achievement for young people; that transportation has a long history as a basic tool in both the public and private education of America's children, and that the Congress should continue and enhance the methods by which desegregation can be effectively accomplished.

Our perspective on desegregation involves a recognition that achieving a society free from racial discrimination is a national goal which must be viewed with pressing urgency. It is an obligation born of our nation's fundamental assertion that all men are created equal. The 13th, 14th and 15th Amendments to the Constitution confirmed this principle by extending the guarantee of equality to all without regard to race. Overcoming racial discrimination is the imperative of a people who regularly pledge their loyalty to the goal of "Liberty and Justice for All." Whatever dark chapters Human Nature has written in America's social history, we know that our nation was not constituted to enshrine Power, Privilege, Convenience and Complacency, but to guarantee us civil liberties.

The real conquest of racial discrimination will not be accomplished by a single act, court order or master stroke. The desegregation of our society must be an ongoing process of continual effort. We find ourselves somewhere on a continuum between slavery and racial equality. We must persist in our movement in the direction of that just goal for our nation's honor's sake.

HISTORY

A short review of the history of desegregation in the St. Louis Public Schools might well show where we fit into this continuum. The year just past is spoken of as "Year One" because it was the first year of a court-ordered desegregation plan. In many ways it was like the Creation in our system—it was done in a very short time, and the changes were fundamental, sweeping and dramatic. It did not, however, begin with Chaos, and it was our commitment that it not end that way. As significant as this past year was, in no sense was it the beginning of desegregation in our system.

In 1954 St. Louis schools—as all schools in Missouri—were race-segregated by state statute, a statute retained on Missouri's books until 1976. Missourians, especially those in the metropolitan St. Louis area, do not think of themselves as "Southerners," but they are the heirs of Missouri's past as a slave state. At the time of the Brown v. Board of Education decision, part of this legacy was an elaborate dual system in the schools of our region and a pattern of interdistrict busing to perpetuate segregation that ignored school district and County boundaries. Prior to 1954, the state operated a segregated, metropolitan-wide school system for Black children. Black children were bused far beyond the schools districts—and often the counties—in which they lived in order to attend the few schools in the metropolitan area set aside for Blacks. For example, the Douglass Cooperative High School in Festus served all Black children living in Jefferson, Iron, Madison, St. Francois, St. Genevieve and Washington Counties; some children who attended the Douglass Cooperative High School lived 40 miles away and rode school buses 1¼ hours each way, each day. Those children who lived too far away from Douglas and other Black schools either moved to St. Louis or did not attend school at all.

In the school year immediately following the Brown decision, the City school board took action to dismantle the dual system within its boundaries. The approach the Board took was to affirm the neighborhood school concept of student assignment. The school system moved into a period of rapid growth, swelling to 116,000 students in 1967–68. Also during this period in 1967–68, the housing patterns in St. Louis settled into a general configuration that identified North St. Louis as Black, South St. Louis as White and the central area as mixed. Exceptions exist to this generality, but in St. Louis the term North St. Louis is synonymous with the Black Community and South St. Louis with the White Community. From 1954 to 1972 decisions concerning desegregation were made in the system outside the context of the courts. In 1972, however, a class action suit was filed by Black parents in North St. Louis. This case, styled Liddell et al. v. Board of Education of City of St. Louis, was theoretically settled by a Consent Judgment and decree in December 1975 in which a program of attendance pattern changes, magnet schools, curricular improvements and staff and teacher transfers was agreed to by all parties. These changes went into effect beginning with the 1976–77 school year. Other parties outside the suit, notably the NAACP, were, however, unsatisfied with the Consent Judgment and Decree and sought to enter the case. After litigation which reached the Supreme Court, the NAACP was allowed to enter the case. At the same time, the court made the State a defendant and allowed certain other groups to enter the case, including the U.S. Justice Department, a group of parents primarily from the City's south side and the City of St. Louis. The Consent Decree, as it is commonly called, came apart as a settlement of the case when the parties could not reach agreement on the methods for carrying out some of its provisions. Judge James H. Meredith then ordered hearings on the issue of the school system's liability for the segregated conditions which admittedly existed. These hearings were held in the fall of 1978 and reviewed the actions of the school board and system in detail, the trends and conditions in which those actions were taken and the opinions of those who were among the actors.

In 1979 the Judge's decision supported the school board's contention that it was not liable for segregation, but on appeal the Eighth Circuit Court of Appeals reversed that decision. This ruling, made on March 3, 1980, gave the school system 60 days (until May 2, 1980) to devise and submit to the court a plan for desegregation of the school system in the 1980–81 school year. This was done in the time allotted and, with minor modifications, was ordered on May 21, 1980.

THE LEADERSHIP CHOICE

After having pursued a vigorous defense of its actions for a period of eight years, the Board of Education was confronted in 1980 with a crucial choice upon the announcement of the Eighth Circuit Court of Appeals decision. Simply stated, it was . . . Shall we or shall we not appeal?

There were strong reasons for adopting either alternative. Some voices from the public and the political leadership urged appeal on the grounds that such a significant finding of liability should be put to the ultimate test in the Supreme Court. Certainly the board members, although they did not feel any personal sense of guilt as a result of the Circuirt Court's finding, might well have pursued further appeals to vindicate themselves and the school system.

The Board of Education was able, however, on one of the finer occasions in school board deliberations and in concert with the Superintendent, to come to a decision aimed at serving the best interest of the St. Louis community. That decision was not to appeal but to put our full and sincere effort toward an educationally sound and effective desegregation plan.

When the word "desegregation" and Boston, Little Rock or Pontiac are linked, no one over 30 can fail to recall the ugly images recorded by the media and inspired, sadly, by some of the leaders in those communities. The Board of Education in St. Louis made a conscious decision to lead the community in a constructive direction; and with the cooperation of many other civic, religious and cultural leaders, the St. Louis community accepted and, in most cases, rallied behind the effort to comply with the orders of the court in a responsible and law-abiding way. Among those in positions of power and responsibility in our City who provided early and continued support for the desegregation effort were officials of City government, notably the then-Mayor James F. Conway; the Coalition for Peaceful Implementation, a group of citizens from various organizations and businesses under the leadership of a widely-respected former Mayor of St. Louis, John H. Poelker; Civic Progress, an organization of corporate leaders; the Interfaith Coalition for Peaceful Integration and Quality Education, a group of religious leaders; the Danforth foundation, a philanthropic organization with an emphasis on education, and many other locally organized groups and individuals functioning at the grass roots to make the plan succeed.

None of this was easy. All of it required some change or sacrifice from someone, but the leadership had decided to build rather than to destroy. The citizens, especially our students, made that decision work. In fact, on the first day of school at Soldan High School (a newly-integrated, previously all-Black high school), the local students greeted those arriving on the buses with ribbons carrying the slogan "Let's Make It Work." No more apt slogan could have been found for the attitude with which responsible people approached this challenge. As a result, the name of our City is not a smear on America's face.

Several other realities entered into our decision on this matter and should be mentioned. Tangent to the issue of constructive v. destructive leadership was the fact that even had we appealed the decision, we would have had to comply with the order of the court. A plan would have been written, with or without our cooperation and leadership. Had we chosen to appeal. The planning process would certainly have been under enormous suspicion and attack, simply on the grounds that we could not be sincere in our efforts toward devising a good plan and at the same time seek to avoid that plan. That seemed to us a formula for confusion, confrontation and contempt.

Another important factor in the decision not to appeal was that the order, in fact, offered some solutions to problems which had been nagging us throughout the case. The order actually pointed in the direction of a definition of a desegregated school; a definition which recognized that stable desegregation is the goal. It acknowledged that in a system in which the ratio of Black to White students is 4:1, some Black students could not be involved in full-time desegregated situations. It gave direction as to the course an acceptable plan might take and left the planning in the hands of the school board (albeit on a very tight schedule). This was especially attractive to us, given the alternative of a court-appointed master doing the planning.

The court also signaled its concern about the responsibility of the State of Missouri, housing authorities at the state, county and city levels, and suburban school districts surrounding St. Louis, a concern which we had previously pressed without success. In 1967 Superintendent William Kottmeyer, under the direction of the St. Louis Board of Education, proposed that a metropolitan solution be considered. A special commission of the State headed by James I. Spainhower (State Representative from the 117th District) reviewed the question of reorganization of the metropolitan area school districts and proposed a plan that would combine the City with County school systems. This suggestion was rejected and there has not been any serious discussion along these lines since then. In 1973 the board sought to include the County districts in our litigation . . . again without success.

The Appellate Court's recognition of the involvement of districts in our metropolitan area was significantly encouraging to our board.

Perhaps the most significant consideration for our board was the opportunity afforded by the court order to make some changes which would provide new learning situations for our students which we felt could increase their academic achievement, respond more appropriately and economically to the educational and social needs of their different age groups, and increase the number of educational options which could be offered to them.

In sum, what we did was to forego appeal and to turn what many have seen as an occasion for revolt into an educational opportunity.

DEVELOPMENT AND IMPLEMENTATION OF AN EDUCATION BASED DESEGREGATION PLAN

With the unanimous support and direction of the Board of Education, the Superintendent and staff began immediately to meet the very tight timeline established by the Eighth Circuit Court of Appeals. Fourteen staff members representing teachers, principals, support personnel and central office personnel were directed to devote full time to the task of drafting a plan consistent with the court order and which would bring improved educational opportunities to the young people in the St. Louis Public Schools. To glean insights from other cities, five members of the planning team visited Milwaukee, Columbus and Louisville and shared preliminary planning considerations with the entire internal desegregation planning team.

In the meantime, Judge Meredith appointed a committee of 20 citizens to assist in the planning process. This committee was organized within three weeks of the March 3, 1980 Appellate decision. To create a spirit of cooperation and openness, the school system's internal planning team—along with the Board of Education and Superintendent—developed the following basic operating principles: (1) The planning would be done openly with abundant opportunity for staff and citizen input; (2) the data gathered by the internal planning team would be made available to the court-appointed citizens' committee; and (3) the media would be invited to cover the planning process including Board of Education sessions and joint meetings among the board, citizens' committee and staff members.

The media would also receive various planning documents. This openness resulted in the development of a solid plan that gained the support of the board, the citizens' committee and some critical elements of the St. Louis community. In addition, the plan as drafted was approved almost without change by Judge Meredith within days of its submittal. This approval also brought with it the thoughtful order providing a reasonable mechanism to finance the implementation of the plan.

The leadership outlined in Section II of this report extended through the busy days in the summer of 1980 in preparation for the opening day of school on September 3, 1980. The success of the implementation can best be illustrated in just a few articles that appeared in various newspapers and can be found in Appendix A. The bottom line of the stories underscores that school started smoothly and, in fact, ran reasonably well throughout the 1980–81 school year. Leadership, a strong education plan, good planning, effort on the part of staff and citizens, adequate resources to deliver the various components of the plan, broad dissemination of information by the electronic and print media and excellent cooperation from students and parents made 1980–81 a very exciting school year.

Without going into the detail worthy of the desegregation plan, but in order to give you a flavor of its elements, we shall briefly sketch some of the more important aspects of the plan. Prior to desegregation the St. Louis Public Schools followed a traditional organizational pattern of grades K–8 for elementary schools and grades 9–12 for high schools. Several magnet schools, organized along the same grade structure, were developed in 1976 with specialized program thrusts. These schools served students from all parts of the City. The desegregation plan changed the organizational structure to grades K–5 for elementary schools, grades 6–8 for middle schools and grades 9–12 for high schools. This allows for specific programming for the respective ages of the students and opens a number of new learning opportunities. For example, by concentrating larger numbers of students in grades 6–8 in a middle school, we could provide industrial arts, home economics, laboratory science, fully-equipped and staffed libraries and full-time counselors, thus producing a much stronger curricular and co-curricular program. Along with these curricular improvements, building modifications and renovations improved the physical environments for students.

With the removal of upper grade students (6–8) from the elementary schools, we could concentrate planning in grades K–5 in order to more specifically meet the needs of young children, thereby strengthening basic skills critical to future success in school.

To provide some exciting new programs, we developed several new and expanded magnet schools. At the elementary level, we instituted a Montessori school for grades K-3 students, and Academic and Athletic Academy for grades 6-8 students, a Center for Expressive and Receptive Arts for grades K-8 students, an expanded gifted programs (Classical Junior Academy) for grades 2-8 students, an additional Individually Guided Education school for grades K-8 students and an additional Academy of Basic Instruction for grades K-8 students. At the secondary level we expanded the Business Office High School into a Business, Management and Finance Center. We also developed a Health Careers Center and opened a Naval Junior ROTC Academy in the fall of 1981. In addition we expanded the Honors Art and Honors Music programs, started a secondary level gifted program (Senior Classical Academy) and incorporated a Mass Media program into one of our regular high schools.

These full-time program and grade level changes were a significant part of the positive change generated by the desegregation order, but they are by no means the entire story. The system developed and implemented a variety of new and improved services. Expanded career education, expanded school partnerships developed with business, cultural and higher education enterprises, a new English as a Second Language program, pairing and sharing programs involving City and County schools, a revitalized thrust of parent involvement and a special student leadership program are some of the excellent programmatic emphases that resulted from a strong education based desegregation plan. These are not programs on paper, but are operational and presently delivering achievement-oriented programs for the youth of St. Louis.

To implement these programs and fulfill the requirements of the courts, it was necessary to use a number of buses as a means to an end. The year before the court-ordered desegregation plan, we transported approximately 7,200 students, and we used 3.10 percent of our total financial resources for this purpose. In the first year of the desegregation plan we transported approximately 13,000 students (approximately 21 percent of our total student population), and we used 4.64 percent of our total financial resources. In the current school year, 1981-82, we are transporting approximately 14,500 students or 23 percent of our total student population. This increase is due to the interest in the voluntary magnet schools; our cost, however, will probably remain relatively stable.

As indicated, desegregation changed our school system in several ways. In 1975-76 we operated 153 schools; 101 had student populations of 70 percent or more Black; 46 had less than 30 percent Black student populations; and six had between 30-69 percent Black student populations. Last school year we operated 116 regular or magnet schools; 66 had student populations of 70 percent or more Black; 50 had student populations of 30-69 percent Black; and none had less than 30 percent Black student populations. These figures are relatively stable for the current school year. Charts in Appendix B provide additional insights into the racial composition of our student population.

You might expect that the implementation of a desegregation plan of this magnitude would somewhat distract the schools from their primary mission. Such was not the case. Three years ago we in the St. Louis Public Schools halted a ten-year trend in declining test scores. Our scores did not at that time go up . . . but they did not continue to decline. The next year, 1979-80, saw a slight improvement in scores. Last year St. Louis students' scores on the California Achievement Test (CAT) showed improved performance above anticipated or expected growth in grades 1-11. We are presently ahead of our ten-year plan to bring student scores up to or above national averages. We are very proud of this accomplishment which we feel demonstrates that a system of our size can both carry out a major desegregation program and continue to improve in the area of academic achievement.

These data reveal the changes that have taken place, and also indicate the continuing need for further desegregation since the City population has insufficient White young people to provide a desegregated setting for every youngster. A significant percentage and number of our Black students still attend segregated schools. We have implemented enrichment programs in these racially isolated schools to improve curricular opportunities, but such programs cannot be offered as a substitute for desegregation that promises a stable, healthy, vibrant, integrated metropolitan community. Many more positive things can be said about our desegregation plan, our students and their parents, our staff and our community; but we believe the message has been clearly stated: Desegregation is right. It can be carried out in such a way as to benefit the children and the community, and it holds forth the promise of improvement and growth. Section V of this paper points toward the future and what can and should be done at every level of government if we truly believe in the principles set forth in the 13th, 14th and 15th Amendments.

ROLE OF TRANSPORTATION IN DESEGREGATION PLANS

As pointed out earlier, desegregation is a process requiring continual effort and a constant search for better solutions to an extremely complex legal, educational and social issue. In this context, however, transportation for desegregation is not unique in the historical annals of public education in the United States. Transportation has consistently, efficiently and effectively been used as a means to and end; i.e., the "yellow bus" has transported students who live too far from their "neighborhood school" to schools for the handicapped, to area vocational schools, to schools in newly-reorganized school districts (thereby crossing traditional school boundaries), and to private and parochial schools. Transportation has seldom been viewed as wrong, dangerous or wasteful when used for the aforementioned purposes. It is only when transportation is used to desegregate schools that the "yellow bus" becomes a detestable tool of alleged "social planners."

The St. Louis Public Schools opened a school for deaf and hard-of-hearing children in 1879. It opened a school for orthopedically handicapped children in 1925. In order to take advantage of these pioneer quality schools for handicapped children, some families moved from other states and from throughout the State of Missouri into the City of St. Louis. Once in St. Louis, however, the majority of children attending these programs had to be transported to school, and this was usually accomplished with a "yellow school bus." The bus became a means to an end!

At the turn of the century our schools were attempting to keep pace with a rapidly developing industrialized nation. The Federal Government became intimately involved in providing financial resources for vocational training in the 1920s and '30s. It became obvious to educators that regional or area-wide vocational schools would provide a higher level of specialized training to a much larger number of students at a more economical cost. These schools were developed to fulfill a national educational and social need—to develop a higher level of skills for an industrialized nation. In order to take advantage of these schools the majority of the students had to travel miles from their respective homes, and the most common means of transportation was a "yellow school bus." The bus became a means to an end!

As our nation continued to grow and prosper in the 20th Century, an educated citizenry became vital to this development. The need for even more participation by young people in the educational process became evident, and tremendous growth was experienced in the percentage of American youth who participated in schooling beyond the elementary grades on into the secondary schools. The median school years completed by persons 25 years and older was 8.1 years in 1910. It has increased to 12.5 years in 1980. As our nation became the most sophisticated industrialized country in the world, educators were faced with the problem of delivering educational services to more students while continuing to meet the growing educational needs of young people.

In 1945-46 there were 101,382 school systems in the United States; in 1979-80 there were only 15,929 school systems. This reduction of 85,453 school systems represents an 84.3 percent decline in just 35 years. This reduction also represents some major policy shifts in determining how we would provide educational services to young people. The geographical territory serviced by school systems increased dramatically. The average size of schools increased dramatically! The one-room schoolhouse in the country and the very small walk-in neighborhood school in many cities and towns were discarded as insufficient to sustain the educational and social needs of our youth, communities and nation. Legislators, Boards of Education and educators made an important decision to consolidate school systems in order to take advantage of the economics of combined resources and at the same time offer broader curricula. In order to accomplish successful consolidation of school systems, transportation had to be provided to more students, and the most common means of transportation was a "yellow school bus." The bus became a means to an end!

In addition, it should be pointed out that the majority of private and parochial schools which provide educational services to thousands of young people all across this nation would have to close their doors if transportation were not available to get their students to school, as most of them live significant distances from their schools of attendance.

For these reasons, "the proportion of the nation's students who are bused has risen steadily—from 12 percent in 1936 to 35 percent in 1956 to today's near majority. Missouri figures are even higher; in 1979-80 more than 60 percent of the state's public school students were transported to school at public expense." [1]

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[1] "School Transportation—Fact Sheet No. 16"; prepared by the Center for the Study of Law in Education, Washington University; July 1871. (See appendix C.)

We view the mandate of the Supreme Court, as issued on May 17, 1954, to be as important as vocational education, special education and consolidation of school systems. We view desegregation as an important educational goal and consistent with the definition of education "as the deliberate systematic, and sustained effort to transmit or evoke knowledge, attitudes, values, skills and sensibilities . . . ."[2] It is this fundamental definition that has caused us to make numerous changes in delivering educational services to young people. We have used sufficient means to accomplish important ends. We have used transportation as one means to important ends.

There is a movement within the Congress to place limitations on the means to accomplish desegregation; a move to enshrine the neighborhood school as national policy. The irony of such a policy is that a majority of the students today in our country do not attend neighborhood schools since 50 percent must reach school by bus. If limitations are placed on school systems and courts by not allowing transportation to be used to accomplish desegregation, will the same limitation be placed on transportation to schools for vocational education, special education, and to other schools that serve a large geographical area? We know that the answer is a resounding no! The effort, therefore, to restrict a means to accomplish a mandated educational and social goal—desegregation—has to be interpreted as an effort to abandon that goal. We vigorously oppose these efforts at transportation restrictions and their purpose . . . to derail the integration of our schools and society.

THE FUTURE

In closing, we want to make a few points about the future direction of desegregation . . . in St. Louis and the nation's cities generally. We are here because your committee has before it a number of initiatives which are aimed at changing the direction of school desegregation from those approaches outlined first in the 1954 Brown decision and detailed in subsequent decisions. Certainly those approaches have had dramatic effects on the educational and social scene. Many would have us believe that none of these effects were positive. They seek to abandon any procedure which would actively promote desegregation in our schools. "Natural" desegregation is fine, they say. If neighborhoods are integrated let Black and White neighborhood children attend school together. Sophisticated adults know, however, that neighborhoods are not integrating or remaining integrated at any significant level in our nation's metropolitan areas. Divisions by race in city and suburban neighborhoods are deepening. What is needed is not a retreat from the objective but an expansion of the methods by which it may be accomplished.

Virtually alone among governmental agencies, the public schools have had the job of repairing America's divided house. Ill-supported, embattled, they have not always approached that job as vigorously and enthusiastically as, in retrospect, they could or should have.

It is time now to enlarge the list of those whose activities must focus responsibly on the desegregation of our society. Desegregation cannot, however, be erased from the priorities of our nation's schools which exist to prepare each new generation for the responsible enjoyment of a free and democratic society.

In St. Louis, the Board of Education has faced its responsibility to pursue desegregation by seeking the inclusion of suburban school districts and certain housing agencies in our current litigation. We have done so for a few very simple reasons, the first being that our desegregation plan, though touching all students in some way, actually has placed only approximately half of our students in integrated settings. Our Black/White ratio is too imbalanced to involve all students and still achieve a situation that anyone would describe as integrated. We feel it is incumbent upon us to provide some way in which all students might ultimately be provided a desegregated educational experience. Our surrounding suburban communities are preponderantly White, although a pattern of racial division is developing among them which generally imitates that in St. Louis—North/Black, South/White. Demographers assert that by 1990 our suburban ares will be 50 percent Black and those Blacks will be racially concentrated.

Another basic reason behind our efforts to expand this case is our view that this problem is a regional one with roots in our past as a state in which segregation in education and housing was the law, and where Black children were moved across many school district boundaries in order to separate them from their White neighbors.

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[2] Lawrence A. Cremin, "American Education: The Colonial Experience, 1607-1783" (New York: Harper and Row, 1970), xiii.

It seems to us that the country's ledership is toying with the idea of an enforced return to the philosophy and practice embodied in *Plessy* v. *Ferguson:*

"We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. . . . The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the Negro expect by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits and a voluntary consent of individuals. . . . Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physicial differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane . . . ."[3]

They contemplate a repudiation of the Brown decision and its corollaries:

"We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does. . . . To separate them (children) from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. . . .

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to (retard) the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial(ly) integrated school system."[4]

We cannot overemphasize our concern about the damage that such a retreat would cause. Justice Warren said it as well as we could:

"In approaching this problem, we cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when Plessy v. Ferguson was written. We must consider public education in light of its full development and its present place in American life throughout the Nation."[5]

Therefore, we urge this Committee and the Congress to:

(1) Resist the movement to cripple the desegregation effort with anti-busing measures;

(2) Reinvest in desegregation by reenacting and increasing funding through the Emergency School Aid Act. Such funding is critical in stimulating constructive educational change and in maintaining high quality programs for children in desegregated settings. Erosion or withdrawal of funding for these programs would be an abdication of responsibility on the part of the national leadership;

(3) Enact housing legislation which is helpful to the objective of an integrated society. Past practices in federal housing agencies have sometimes served to further entrench racial divisions in housing and, therefore, in schools;

(4) Review carefully the educational role and responsibility of the Federal Government in supporting the mandates of the Constitution and pursue public policy that continues to recognize our obligation to overcome segregation.

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[3] From Opinion of the Court, *Plessy* v. *Ferguson*, 1896.

[4] From Unanimous Opinion, *Brown* v. *Board of Education of Topeka*, 1954.

[5] Ibid.

APPENDIX A

Kids Make It Work

'Super start' to integration as school attendance tops expectations

By CHARLES E. BURGESS
Globe-Democrat Education Writer

9/4/80

Almost three of every four students expected to attend St. Louis Public Schools this year turned out for class Wednesday in a peaceful first day of court-ordered desegregation.

Good morning news

Students, parents and teachers were credited with the orderly opening day. The higher-than-anticipated attendance levels and cooperative attitudes were praised by school officials, who said they were encouraged by the first day of classes.

SCHOOL Superintendent Robert E. Wentz said the first day was "a super start" and praised the students who attended.

"The kids were great today. Some were anxious, some were questioning, but they came in and got on with it."

School officials had said earlier that they would be satisfied if 40,000 of the 63,000 expected students attended the first day.

Wentz said preliminary unofficial figures showed about 46,500 students, or 73.8 percent of the projected enrollment, were on hand for the first day. Figures for individual schools were not available.

Last year, the attendance was 83.3 percent of the enrollment of 66,011. No figures were available for 1978-79 but the attendance was 80.9 percent in 1977-78, Wentz said.

School board President Gordon L. Benson praised students, parents and teachers and said the city had provided an example for the rest of the country, particularly other cities that have desegregated their school systems.

"WHAT WE'VE DONE here today is a model for the rest of the country because of our attitude, our responsibility, our method of operation and our leadership," he said.

The city was the focus of national

Continued on Page 11A

FOR YOUR INFORMATION

FROM: PUBLIC AFFAIRS DIVISION

School integration gets off to 'super start'

Globe
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Continued from Page 1A

attention Wednesday with national reporters on hand to observe the first day of classes. Some of the national reporters complained that the desegregation effort had not developed into a major story.

The peaceful opening day left police and security officers with little to do except keep a watchful eye on the day's events.

Lt. Col. William E. Brown, assistant chief of police, who was in charge of police operations for the opening day, said, "This is the only time I can't say police officers did a fine job, because they didn't have to act. But they were ready, and I know they would have come through if needed."

U.S. District Judge James H. Meredith, who approved the board's desegregation plan, said he was pleased at Wednesday's developments.

"Everybody did everything in their power to assure this plan worked, blacks and whites. Everybody went to bat to try to make it work," Meredith said.

CALLING THE desegregation case the most monumental task he has faced in his 18½ years on the bench, Meredith said, "Naturally, I am pleased that the plan went into effect on a peaceful basis. The reason is, because you had a number of different groups, the ministers' alliance, various churches, efforts by the school board, the PTA and businessmen."

Meredith said the school board can now get on with the job of providing quality education for all students with the implementation of the plan.

The day was marked by these developments, some serious, some less so:

— Ironically, the largest busing demonstration was by parents who wanted more buses. More than 40 parents whose children were scheduled to attend Cote Brilliante Elementary School, 2812 Cora Ave., appeared at the school to protest that they had not been provided bus transportation.

School officials later said the Marshall Branch School, 4323 Aldine Ave., which had been closed, would be reopened to handle an overflow of students at Cote Brilliante. One scheduled anti-busing protest fizzled.

— **STUDENTS WHO** formerly attended Soldan High School were welcomed by members of the Cleveland High School football team when they arrived at that South Side school. Soldan and Cleveland were the focus of much attention because students from mostly white Cleveland were to be exchanged with students from mostly black Soldan.

The following staff writers contributed to these stories: Bill Bryan, Michael C. Sheward, Les Pearson, Thomas L. Amberg, John C. Shelton, Edward L. Cook, Henry T. Vogt, Rick Stoff, Debbie Wiethop, Linda Lyon, Tim Poor, Sam Richardson, Mark Edgar, Arthur J. Thomason, Jeanne Moore, Albert L. Schweitzer, Katy Gurley, Thomas B. Newsom, Dick Goldkamp, Donald I. Hammonds, Tim O'Neil, Bill Stolberg, Bill Smith and Barbara Schechter.

— At Soldan, formerly 99 percent black, things went just as well as neighborhood churches joined in welcoming students from South St. Louis. The pastor, the Rev. Alfred B. Cummings, and parishioners of Pilgrim Congregational Church, which is just south of the high school, passed out colorful cloth tags with the slogan "Let's Make it Work."

"It was a sentiment we felt everyone should share," said the Rev. Mr. Cummings.

— Police contingents who were deployed in case of trouble had to find ways to kill time. Ping-Pong, pool, poker, and naps were popular at the Union Boulevard District station, a block from Soldan.

— **STUDENTS AT THE** three kindergarten-through-grade-eight schools that were untouched by the desegregation plan expressed relief that their schools had not been disrupted but said they were worried they might be missing good educational opportunities.

— Blow Middle School Principal Cornelia Flowers bought 41 loaves of bread and enough peanut butter and jelly to make sandwiches when the hot lunch that was supposed to be at the school did not arrive on time.

— Most of the 200 buses on the 400 routes arrived on time, but there were some reports of students waiting for up to two hours for buses that never came. One bus arrived at the Henry School with no students.

One bus picking up Roosevelt area students to be transferred to Soldan arrived with only nine of the 21 students who were scheduled to be there.

Some buses were late picking up students Wednesday afternoon, and one bus hit a car Wednesday morning but was able to continue on its route.

MICHAEL J. SUMMERS, purchasing and transportation director for the St. Louis Public Schools, said there were fewer problems Wednesday than in past years when fewer students were bused.

There were some cases of students not knowing where to catch buses, but that would be eliminated by Thursday since they were dropped off at the right places Wednesday afternoon on the return trip.

Drivers polled at the Gateway School Services bus terminal on Hall Street said school buses ran as early as five minutes ahead of time and were as late as a half hour. Most buses appeared to run about 15 minutes late, with few problems reported.

"It went so well it surprised me," said Warren Hageman, operations supervisor at the North Side terminal. "There was nothing out of the ordinary for the first day. What we had was mainly time-schedule problems."

Tom Alford, a driver and shop steward at the terminal, also reported no unusual problems with the buses.

Only one of the 180 new monitors assigned to accompany drivers failed to show up Wednesday, said Samuel Miller, director of special services for the school system. "We got a backup monitor at the bus before it got out of the yard," he said.

Monitors and bus drivers handled their individual buses in their own way.

Katherine Williams, who drove a bus from North St. Louis to Cleveland High School, said she wanted boys to sit on one side and girls on the other. "There will be no smoking, no trash on my floors, no hollering and no eating at all," she said.

"I LOVE EVERYBODY, but you have to act like you want to be treated that way. If you don't behave, you can get off this bus."

Some snags in teacher assignments remained. School officials said about 80 of the 4,100 teachers do not have permanent assignments yet but most were assigned as substitutes Wednesday.

School officials, elated over the relatively few problems Wednesday, said they expected most to be ironed out by Thursday and attendance to improve.

"Typically, attendance climbs day

Globe-Democrat Photo by Ken Winn

Students meet in school library at Southwest High School to receive locker assignments on the first day of the new school desegregation plan.

by day when they see nothing happens," said Gary A. Orfield, court-appointed expert adviser for the St. Louis plan.

"I expect a nice, calm day with relatively low attendance," Orfield said as he rode a bus to Cleveland High School.

"Often, many students stay home the first day to see what happens, then the momentum builds up over the next few days."

BENSON SAID THERE were four factors that led to the peaceful first day of school:

— The board acted responsibly in setting the proper attitude for desegregation and for the plan that was adopted.

— The media "without exception" acted responsibly in reporting the details and fine points of the plan.

— Positive public response from community leaders, especially former Mayor John H. Poelker and Mayor James F. Conway.

— "The natural and inherent attitude of St. Louisans to respect the orderly process of things."

Benson noted that the city had no racial violence in 1968, as other cities suffered, after the assassination of the Rev. Dr. Martin Luther King Jr.

POELKER AND Conway rode buses Wednesday morning and said they expected attendance to improve.

Conway said he was riding a bus to Roosevelt High School "because I want to join other civic leaders and citizens in demonstrating the safety of the program and relieving parental concerns. This is one of those cases where no news is good news."

Poelker, who headed a group known as the Coalition for Peaceful Implementation that was formed by Civic Progress Inc., said, "It usually takes about 10 days before the school system gets a real feel for its enrollment."

The ministers' alliance referred to by Meredith was the Interfaith Coalition for Peaceful Integration and Quality Education, a group of about 40 ministers that recruited about 60 volunteers to ride buses and watch pickup points Wednesday.

THE REV. CECIL W. Howard, coalition co-chairman and a former school board member, said the group would continue to operate at least until January "to monitor whether what the second part of our name symbolizes is occurring — quality education."

The Rev. Ronald Vail, head of Operation PUSH in St. Louis, said of his bus ride from North St. Louis to the Blow Middle School in South St. Louis, "I think it's exciting. Everybody has joined in on this effort. It's one of the first community actions I've seen where a commitment has come from the entire community. It's not happened before in St. Louis, where everybody has rallied round."

PUSH (People United to Save Humanity), originated by civil rights leader the Rev. Jesse Jackson, has active student chapters in several high schools in North St. Louis.

'Super Start' To Desegregation

9-4-80

By Maura Lerner
Of the Post-Dispatch Staff

St. Louis school officials were nothing less than buoyant as they entered the second day of court-ordered desegregation today after Wednesday's peaceful, only mildly flawed opening day of school.

"It was a super start," said Superintendent Robert E. Wentz said at a press conference Wednesday night. "It was Triple-A."

Their euphoria continued this morning when all of the 170 buses being used to transport students rolled out of their garages on schedule. City police kept a close watch on all three terminals, but reported no incidents of vandalism or attempts to obstruct them.

This morning at Soldan High School, 918 Union Boulevard, white students poured through the front doors as though they had been going there for years. Last year Soldan was 90 percent black. This year, only 30 percent of its 1,850 students are black.

Former St. Louis Mayor John H. Poelker, chairman of the Coalition for Peaceful Implementation, was on hand to observe. "It's a pleasure that parents and teachers have responded well, some with great reservation," Poelker said.

"Everyone recognizes what the law is and wanted their children to pursue an education in an orderly manner. Parents have set aside differences about desegregation and busing and started thinking about children. But the job is just past the first inning. We all need continued dedication throughout the school year."

At School Board headquarters at 911 Locust Street, the telephones plugged into the board's "Straight Story Line" (231-6900) were virtually silent early this morning. School officials interpreted that as a sign that most parents know their children's school assignments and busing arrangements.

At the district's security headquarters at 1517 South Theresa Avenue this morning, the only problems that appeared were children missing buses.

In most cases, the district

See SCHOOLS, Page 8

SOME SIDELIGHTS to the story of school busing. Page 1D

DESEGREGATION a fizzle for the national news media. Page 3D

BUS NO. 40 to headquarters: "What should I do?" Page 3D

PAGE OF PICTURES on the first day of school. Page 1E

Schools

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FROM PAGE ONE

compensated by providing rides. But it plans to discontinue that practice next week. Dispatcher Ethel Terry said she suspected that the main problem was that chidren were oversleeping.

"They've got to get out of bed," she said. "If I was here at 6 a.m., I know doggone well they can get up and go to school. We can't get them up out of beds."

School officials Wednesday night were openly delighted that the first day of school desegregation, which had prompted violent outbursts and demonstrations in several other cities, had gone so smoothly here.

"It's a model for the country that a city can be responsible (and) work together," said School Board President Gordon L. Benson.

No acts of violence or protests were reported at any of the schools Wednesday, and a demonstration planned in front of the School Board's downtown headquarters, 911 Locust Street, fizzled when only one family showed up.

But problems of late buses and a few lost children cropped up throughout the day. And one school, Cote Brilliante, 2616 Cora Avenue, found itself swamped with 100 more children than it could handle, and school officials announced quickly that they would reopen Marshall Branch School, 4322 Aldine Place, by Monday to handle the overflow. Marshall had been closed earlier this year.

Almost three-fourths, or 73.8 percent, of the expected 63,000 students showed up at school Wednesday, Wentz said. "We're very pleased, because it's not too far from our normal startup," he said. According to official figures, 46,524 students attended the first day of school this year, compared to 55,017, or 83.3 percent, last year.

"Kids come trickling in," Wentz said. "The normal first day is not going to be how many kids you've got in your system." He said he expected more parents than usual to keep their children out of school this week because of uncertainty about the start of desegregation.

But he, and other officials, expect the enrollment to rise shortly. "We realize that a number of students didn't report on the first day," said Sam Miller, director of special services and head of security. "They were staying out on a wait-and-see basis. I suppose that after seeing nothing is going to happen, they'll be coming back to school again."

At Mann Elementary School, 4047 Juniata Street, 386 of the projected 500 students attended, according to school officials. At Hamilton Elementary School, 5819 Westminster Place, 308 of the 400 expected students appeared. And at Long Middle School, 5028 Morganford Road, 4[illegible] of the 400 projected students arrived.

At some of the new "magnet" schools, too, the first-day attendance was well below capacity. Officials attributed that to the newness of the programs, and to the fact that officials have been trying to achieve a 50-50 racial balance at the schools, and too few white students have applied.

About 15,000 students were to have been bused to school, half for desegregation purposes only, and half for overcrowding and other reasons. Roughly [illegible],000 students rode school buses Wednesday, according to Deputy Superintendent Ronald Stodghill.

About 27,000 students, including 6,000 at the district's 15 magnet schools, had been scheduled to attend integrated schools, with about a 50-50 black/white ratio. The rest of the students were to remain at all or predominantly black schools on the North Side.

Officials said Wednesday they had no breakdown of how many whites and blacks attended school Wednesday. "We've never taken a racial count on the first day," Wentz said.

The first day, though, got generally positive reviews — even from those who had denounced the desegregation plan itself.

"I think everything was very positive," said Minnie Liddell, one of the parents who initiated the desegregation suit that led to the court-ordered plan. Mrs. Liddell, who has criticized the plan for leaving out most of the city's black students, said: "I was very proud with the way everything went. I am proud of the parents who were willing to give it a try. It was definitely a point in St. Louis' favor."

Jerrianne Adams, who had fought the desegregation suit in court as a member a South Side anti-busing group, agreed. "I am delighted," she said. "I rode school buses all morning, and the kids made me feel good. At Soldan, all the kids were acting as if they had gone to school there forever. I think it's wonderful that there weren't any incidents. I think St. Louis has done something really great here."

Some of the students, too, said they were pleasantly surprised Wednesday. "It went better than I expected," said Lester Neal III, a freshman at Cleveland High School who lives in south St. Louis. "I didn't see any fights or anything. All the teachers were there on time, and I didn't get lost — it's a big school."

Lisa Perry, a South Side student bused to Soldan, said she finished the day with a changed opinion of her school. "The school is clean — it's not dirty — and the windows are not broken out like I expected," she said. "It's a big, nice school."

Odessa Mack, whose three children were bused from the Near North Side to south St. Louis schools, said her own family's first day back at school appeared to be a success. "They

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enjoyed it, they loved it," she said. She said she was worried, though, that the bus rides may create problems later on. "They haven't got bad weather yet," she said.

But Anthony Sestric, attorney for a south St. Louis group appealing the desegregation plan, said the low attendance figures showed widespread dissatisfaction with the plan. "The numbers were . . . actually lower than we had feared," he said of the attendance figures. "Despite what the board says, there were a number of problems today. There are some parents who may pull their kids out of public schools after today because in some instances there were no teachers or classes."

Board President Benson said, however, all classes had teachers, although some of them were temporary substitutes. Some of the district's teachers have not received permanent assignments.

Police officials, who had increased their regular patrol force to 450 as a precaution against trouble in the schools, said they were heartened by Wednesday's peaceful transition. But they said they would continue with their expanded staff today in any case.

Similarly, school security officials said the system's 20 roving guards would remain on 12-hour duty. "We'll evaluate the situation from day to day to see what's needed," said security chief Miller.

The biggest stumbling blocks Wednesday appeared to be delays with buses, especially during the afternoon runs. Delays were reported at several schools ending at 2 p.m., and at even more schools ending at 2:45 and 3:30 p.m. Officials explained that buses run three trips each, and that delays in the first bus runs cause delays in the later ones. They also said buses ran later than usual because drivers were checking the destination of each young passenger to make sure the right child was on the right bus.

Most of the buses on the final regular run of the day were 15 minutes to two hours late, with the last driver reporting an all clear at 5:47 p.m.

"We got backlogged in the evening," Wentz said. "But the problems we experienced in that respect were not any greater than the startup of any school year."

One group of parents marched on board headquarters Wednesday to demand buses for their children, who had been reassigned to Cole Elementary School, 3935 Enright Avenue, from Riddick School, 4136 Evans Avenue, which was closed this year. The parents said they were keeping their children home from school because of the lack of bus service.

The board's policy is to provide bus service only for children who live more than a mile from school.

"For some of the kids in our area, the distance is well over the mile limit," said Mary Summers of the 4300 block of Page Boulevard. "And for some of the others, the way they have to go to get to the school takes them through bad neighbhoods, places where the weeds grow taller than the children and where drunks and derelicts sleep in doorways."

Deputy Superintendent Stodghill, who met with the parents, said he would look into assigning a security officer to walk the children to school. He said that plan was being used in some other cases.

Aside from the busing troubles, Benson said the schools faced a routine series of first-of-the-year problems — a shortage of 57 crossing guards, who were replaced by police officers and volunteers, and the late arrival of food service trucks at several schools.

Gary Orfield, the court-appointed expert overseeing the desegregation plan, agreed. "There was a very good start today," he said. "But too often many districts open with good starts and people will walk away, thinking everything is swell. Then things start to happen.

"What happens next depends on a number of things, including good positive race relations with the students working in harmony at the school level. This will determine what kind of race relations the school system will have."

Orfield, a political science professor at the University of Illinois-Champaign Urbana, said that most cities that undergo desegregation do it peacefully. Violence, he said, is the exception. "The point is that where there is a problem, it is so explosive — like in Boston or Louisville — that people have the perception that desegregation carries with it a lot more violence than it really does.

"Some cities spend all of their time fighting their desegregation orders through appeals," he said. "But in St. Louis, the school officials started right away working on the plan and had all summer to develop it."

The board was ordered to develop the plan March 3 by the 8th U.S. Circuit Court of Appeals, which found that the district had contributed to racial segregation in its schools.

"I think today shows that St. Louis is different from Milwaukee, Louisville and Boston," said Roy Gillyam, vice president of Bevo 2000, as he watched children board buses Wednesday at the nearby Long Middle School. "I was opposed to busing, but it's here and I'd say let's make it work, get on with it. And it worked today. There *is* a real Spirit of St. Louis."

(Information for this article was provided by George Curry, Howard S. Goller, Linda Lockhart, Patricia Rice, Tommy Robertson, Robert L. Joiner and Gregory B. Freeman, all of the Post-Dispatch staff.)

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Day One:

St. Louis Schools Get Integration Off To Quiet Start

The first day of integration for St. Louis public schools dawned quietly yesterday at Gateway School Services (top right), where buses waited to take pupils to their new schools. It continued just as quietly, as students began the school year with only a little more confusion than normally marks the start of a new term. Right, the football team at Cleveland High had integrated early because of practice. As team members got together on the first day of school, Robert Maxwell (glasses) and Mike Campbell checked out a newspaper story on the team.

Photos by Scott Dine, Robert C. Holt Jr. and Bill Kesler
Of the Post-Dispatch Staff

Above, students at Soldan High passed out hand-lettered "Let's Make It Work" ribbons to newcomers. Left, there were a few hitches in bus schedules. Yolanda Garcia, 7 years old, and her sister Chrisanta, 8, of 7608 Virginia, were to be picked up at 7:35 at Schirmer and Virginia, but the bus didn't come until about 10.

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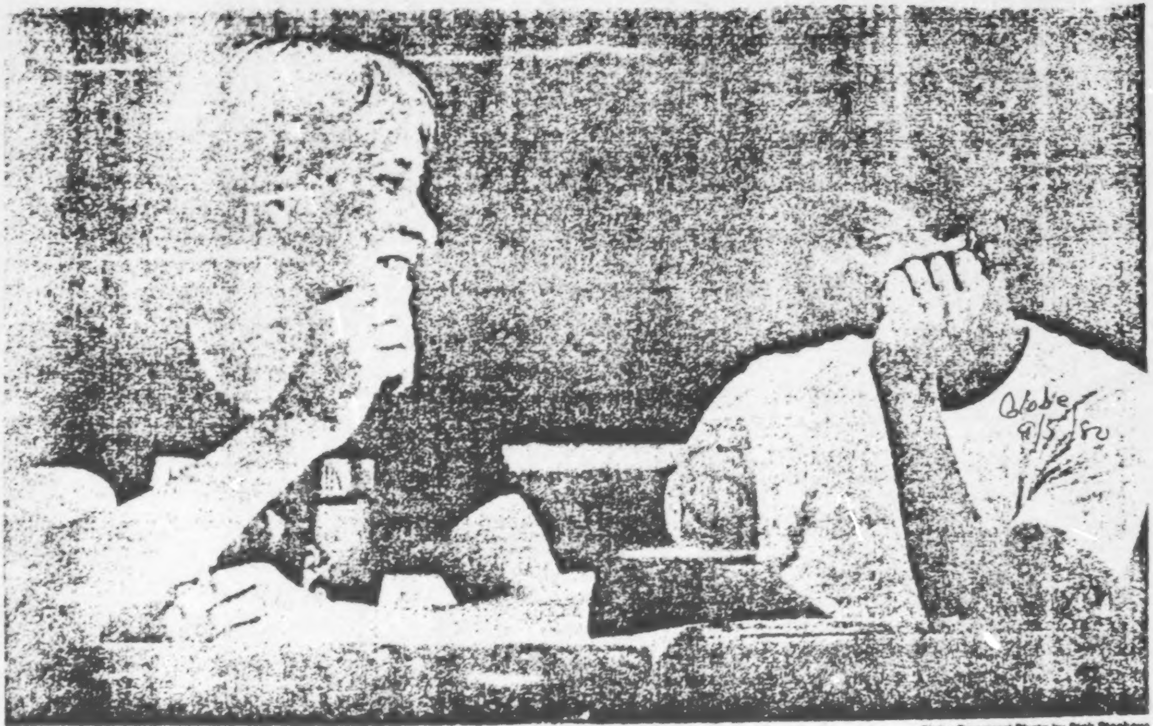

Globe-Democrat Photo by Rick Stankovo

Keith Grundig, 14, left, and Douglas Washington, 14, share a conversation Thursday during the second day of classes at Cleveland High School.

Historic Day for Schools

First day of class under desegregation order

By CHARLES E. BURGESS
Globe-Democrat Education Writer

Amid predictions of light attendance, St. Louis public schools prepared to open Wednesday for the first day of classes under a court-ordered desegregation plan involving the busing of 15,000 students.

Community, education and law enforcement officials were expecting a peaceful and orderly beginning for the city's projected 63,000 students and 4,000 teachers.

Teachers are ready *5A*

The final segments of the plan were falling into place Tuesday, as teachers returned for a preparatory day and 20 buses were readied for operation beginning at 6:30 a.m. Wednesday. Some 60 volunteers recruited by the Interfaith Coalition for Peaceful Integration and Quality Education were preparing to ride buses Wednesday.

"WE HAVE BEEN briefed so much that I don't know what else they could tell us," a security guard at O'Fallon Technical High School said Tuesday. More than 100 system-employed guards will be in schools or on roving assignments.

Policemen were to be stationed at all high schools, backed by mobile units in close radio contact with school security personnel, according to William E. Brown, assistant St. Louis police chief.

"I have no reason to believe Wednesday will be anything but peaceful," said Edward T. Foote, chairman of the court-appointed Desegregation Monitoring and Advisory Committee.

A climate of "peaceful acceptance" of desegregation has been created through "widespread community effort," according to former Mayor John H. Poelker, head of a group called the Coalition for Peaceful Implementation.

EVEN GROUPS that announced plans to protest emphasized their actions would be peaceful. Two anti-busing groups — with their leaders uncertain on how many would be participating — have called for picketing the downtown Board of Education headquarters and the federal courthouse Wednesday. The groups call themselves the Save Our Northside Schools Committee and United Parents of North and South St. Louis.

About 125 black and white parents gathered in Pilgrim Congregational United Church of Christ, 826 Union Blvd., Tuesday night and heard Anne Murrey, chairman of United Parents, make an impassioned plea for nonviolent protest, again urging the protest burning of bus assignment cards in front of the school board building Wednesday morning.

"For God's sake," she said, "let's not have a repeat here of what happened in Boston and Miami. Let's not have a riot." Racial violence accompanied court-ordered desegregation in those cities.

SHE URGED boycotting opening-day classes.

Sgt. James H. Buchanan Jr., chairman of the St. Louis Ethical Police Society, which represents black policemen, said, "Our purpose is not to circumvent or defy the judge's order."

He faulted the city's "conspicuous

absence of leadership for the desegregation crisis" and urged the audience to organize "so we can solve our dilemmas by ourselves next time."

Veda Fowler, an elementary school teacher and a leader of the Save Our North Side Schools Committee, urged parents to monitor schools near their homes and to meet at Antioch Baptist Church, 4213 W. North Market St., at 4 p.m. Sunday to plan for a legal appeal of the desegregation order.

School officials and police expect some peaceful picketing by individuals and parent groups at schools or at bus pickup points.

Although the anti-busing groups are urging parents to keep children out of school unless the board agrees to modifications in the desegregation plan, the effect probably will be hard to measure.

"ATTENDANCE ALWAYS is light

Continued on Page 8A

Historic day for St. Louis public schools

Continued from Page 1A

on the first day of school — a lot of kids don't get back until the first full week," said an aide to Superintendent Robert E. Wentz.

Only one-third of the projected 63,000 students will be attending mandatorily or voluntarily integrated schools under the desegregation plan.

The most controversial sections of the plan integrate 33 regular elementary schools and four regular high schools, all in South St. Louis or in the city's central corridor. This will require busing of about 7,000 students. There will be 15 integrated magnet schools, open to voluntary citywide enrollment.

Six months of planning has followed the 8th U.S. Circuit Court of Appeals' order March 3 to begin desegregation of the St. Louis system.

THE PLAN DEVELOPED by the school administration and approved May 21 by U.S. District Judge James H. Meredith leaves some 60 schools — all in North St. Louis except Peabody Elementary on the South Side — with nearly all-black enrollment.

While both white and black parents have been dubious of the values of busing, many of the protests from North St. Louis — including those of the new Save Our Northside Schools Committee — have focused on fear that the plan will mean educational neglect for black children remaining in segregated schools. In an effort to allay these fears, the plan includes for non-integrated schools a number of curriculum enrichment courses, part-time integration programs and the same elementary structure as adopted for the integrated segment.

Some 23 middle schools, each drawing from the attendance areas of one or more grade one-five schools, will replace the old two-tiered school system, with 16 being integrated this fall.

THE BUS CONTRACTOR, Gateway School Services, was busy Tuesday preparing 200 buses for operation.

"We are ready to roll," said Alan Braun, manager of the Gateway School Services terminal at 814 S. 13th St., one of three the firm uses.

The terminal will send 60 buses on regular routes, and keep six on radio-call as backups in case of breakdowns or to pick up students who are inadvertently missed.

Mechanics were starting all buses Tuesday as a safeguard, and there was to be a special watch against vandalism.

While most of the system's approximately 4,000 teachers were at their assigned schools Tuesday for familiarization programs, about 30 — chiefly elementary — hadn't received assignments.

THE PROBLEM WAS caused in part by the closing of 20 elementary schools, and also by reassignment of hundreds of teachers to meet the plan's racial quota. The quota requires each staff to be within 5 percent above or below the systemwide ratio of 62 percent black, 38 percent white.

At noon, about a dozen unassigned teachers were cooling their heels in a waiting room at the Area III office, 1104 N. Jefferson Ave. Most were black elementary teachers, temporarily adrift because teachers with more seniority had taken their places in reaching the racial ratios at various schools.

"It was the racial balance thing. I had six years' seniority and was pulled out of my school, and they still have classes without teachers," said one. All agreed to comment only if their names weren't used.

Another, with four years' seniority in the system, said, "I was moved because of racial balance and replaced by another black teacher, so I sit here waiting."

AN ELEMENTARY physical education teacher who also is an assistant football coach at a high school said he was hoping for a school with an early starting time "because practice is at [illegible]:30, and we play this weekend." He said he had one assignment Aug. 1, but a notification rescinded it within three days.

David Mahan, who supervises four high schools, seven middle schools and 20 grade one-five schools as Area III superintendent, promised, "All teachers will have an assignment for Wednesday morning."

Down the hall, a North St. Louis white parent, Betty Mandina, was seeking approval for a transfer so her son, Joe, could continue attending Roosevelt High School in South St. Louis. A family move had caused his reassignment to Soldan. "We've been three places this morning. I can't figure out what's going on," Mrs. Mandina said.

AT THE SCHOOL board building, about a half-dozen telephone operators were scrambling to answer last-minute questions on the Straight Story Line, 231-0000.

Vertus Jacobs, manager of the crew, held out little hope that the flurry of calls would wind down for a week or so and said some of the inquiries have stunned the volunteer operators.

"A lot of parents are holding off until the last minute to get things worked out. . . . We've had parents who've said they just won't let their child go to a new assigned school," she said.

On the other hand, said Jo Anne Leach of the system's parent involvement committee, students who call often just want information. "The kids don't have any problems about it (desegregation). The kids are saying, 'What's the big deal. I just want to go to school,'" she said.

THE RETURNING students, especially those attending the new middle schools, can expect to see some renovation under way for their new library, science, industrial arts and home economics facilities, said Louis H. Ratz Jr., deputy superintendent for management.

The facilities are a feature of curriculum improvement for both nonintegrated and integrated middle schools, "but the earliest completion date will be Oct. 15, and many of them won't be done until December," Ratz said.

The mood of officials and teachers at many schools was generally optimistic. The teachers were meeting with department heads and their principals throughout the day, receiving assignments and special instructions.

Many principals predicted schools would quickly get into the routine of the year's work.

"BREAKFAST WILL be ready in the morning and we'll be ready to go," said Tom Stenger, principal of Shenandoah School in South St. Louis, a school that was formerly 70 percent white but will be 55 percent white under the desegregation plan.

Cory W. Marks Jr., principal at Beaumont High School, which will not be integrated under the plan, said he doesn't feel left out.

"Everyone is committed to making this thing work," Marks said.

Jim Rackwitz/Post-Dispatch

Ricky Edwards preparing to board a school bus for a trip across town to Cleveland High School. His mother, Ernestine, says desegregation has gone even "a little better than what I thought."

The School Week Was Upbeat For North St. Louis Family

By Courtney Barrett
Of the Post-Dispatch Staff

9/7/80

A lurching, bumpy bus ride notwithstanding, St. Louis' first week of desegregated schools provided few jostles to the family of Ernestine and Richard Edwards Sr.

The Edwardses, a black family living at 5743 Wells Avenue in north St. Louis, approached Wednesday's start of desegregation as an idea that would work — if adults did not interfere.

Three days do not a school year make. But the Edwards say they are pleased and not at all surprised at the reports of general calm in the first week of classes.

"I got the impression that it was going to work the way that I thought it would," said Mrs. Edwards. "Really, it

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Edwards

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turned out a little better than what I thought."

The entire week, in fact, was upbeat for the family.

Edwards, who had recently lost his 10-year job as a machinist at Crown Cork and Seal Co. Inc., 5622 Natural Bridge Road, started work Tuesday at Raskas Dairy Inc., 1313 North Newstead Avenue.

The Edwardses' son Richard, 17, is the family member most directly affected by the desegregation plan. After three years at Soldan High School, 918 Union Boulevard, Richard is being bused this year to Cleveland High School, 4352 Louisiana Avenue in south St. Louis.

The desegregation plan means that three daughters — Demetria, 10; Cynthia, 9; and Jennifer, 7 — have been switched this year to Emerson Elementary School, 5415 Page Boulevard. Last year, they went to Ford School, 1383 Clara Avenue, which was converted to a middle school this year.

Mrs. Edwards said she had considered having the girls transferred to another school, perhaps Marshall Elementary at 4342 Aldine Avenue, but decided against it.

All the Edwards children voiced few complaints about their schools.

Deborah, 12, a seventh-grader at Ford Middle School, reports only half-jokingly that teachers there are a bit too strict when it comes to classwork.

Richard's appointment with desegregation began with an early-morning knock at the door by Dwight Sloan, a senior who is also being bused from Soldan to Cleveland.

With briefcases in hand, the two walked a block and a half to the corner of Blackstone and Wells avenues, where, along with about 20 other students, they boarded the 6:55 a.m. bus.

After a sharp left turn, the bus rumbled east on Martin Luther King Drive, past boarded-up store fronts and small shops whose signs and markings show a trail of change and instability.

A right turn onto Compton Avenue, a 15-minute trip into south St. Louis, and Richard and the other students entered into the hubbub of the first day of school and desegregation.

For Richard, the week included the details of finding his locker, getting permission to participate in sports, finding his way around Cleveland and appearing on the local public television station to discuss the desegregation effort.

So far, so good, said Richard.

"Everybody is just making friends," he said. "Nobody's calling each other names or anything. We're just all getting together."

Richard, who is listed in "Who's Who Of American High School Students," was in line to be yearbook editor at Soldan this year. At Cleveland, he has joined the yearbook staff and says he appears to have a good chance to be editor.

"The teachers seem to be real nice," he said. "They're willing to help and everything. To me, really, they seem a little better than Soldan teachers."

Overall, however, he still calls the desegregation plan ill-timed and especially unfair to the graduating seniors. "My attitude about that hasn't changed."

And if there must be busing, he said, some later buses, perhaps making pickups 15 to 30 minutes before the start of school, are needed. "You just need something to keep the students from having to get up so soon," he said.

Still, he said, he's getting used to the bus ride.

"It's pretty good," he said. "I kind of like it now. Coming home from practice, it's pretty good. One bus comes at 4:30 and another comes at 6."

One topic of discussion around the Edwardses' dinner table was a fight that broke out around noon Friday between a black student and a white non-student on school property just outside Cleveland High School.

Mrs. Edwards said she's concerned that a non-student was allowed on the premises.

"We thought that they had an idea of who goes to the school and who doesn't belong there," she said. "They do check on the bus, with the monitor calling off the names and all, but Richard says that at the school they don't have it.

"I think that they should, so they'll know who goes there and who doesn't belong there. And the ones who don't belong there, they should stop them before they get to the door. Keep all of them out. Other than that, the week's been fine."

Cleveland Principal Albert Reinsch said his investigation of the incident showed that "a rather unfriendly non-student, white, came on the school property and provoked one of our students into a fight."

Reinsch said the scuffle, which was quickly broken up by security guards, happened during the first lunch period in a designated smoking area outside the school.

"To my delight," Reinsch said, "the student body behaved splendidly. No one else entered the fray." Neither of the combatants appeared to be seriously injured, Reinsch said.

He said the intruder, 17, was taken into custody and will be prosecuted under the school trespassing ordinance. The student was placed on behavior probation, but will not be suspended, Reinsch said.

Because Cleveland's intercom system is not yet operable, Reinsch said, he had an official statement on the disturbance distributed to each classroom to quell rumors.

And he said security guards will be able to check student identities as soon as all identification pictures are taken and processed, which should be completed Tuesday.

Despite the one incident, Edwards said, he is pleased with the opening of schools.

"As I said, let the kids go for themselves," he said. "There wasn't too many grownups out there, and that helped. Everybody was looking for a big ruckus, and there wasn't one. I think the teen-agers, the youngsters, are just going to change the whole system around."

Edwards added: "This is what I was looking for. I was looking for it to be like this. As long as you can keep these grown folks out of it, and keep them from up there yakkity-yakking and going on, you won't have any problems."

Wayne Crosslin/Post-Dispatch

Drew Maness responding to a question last week at his new school, Hamilton Elementary. His mother, Donna, who had been concerned about desegregation, now says, "I think everything will be OK."

A Mother's Appraisal Of Busing: 'I Think Everything Will Be OK'

By Charlotte Grimes
Of the Post-Dispatch Staff

9/7/80

In many ways, it has been like waking from a nightmare — a mixture of relief and left-over apprehension.

With those feelings, the family of Les and Donna Maness is emerging from the first days of desegregation. It is a change from their mood of gloom 10 days ago, but it did not come easily or without pain.

"I think," said Mrs. Maness, "everything will be OK."

The Manesses, a gregarious Irish-Italian-German family in southwest St. Louis, are among the white families involved in the court-ordered busing to achieve school desegregation.

Starting with the opening of schools Wednesday, three Maness children

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Maness

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were dispatched to schools across the city as follows:

— Dawn, 16, to the Center for Business, Management and Finance, 814 North 19th Street, a magnet school six miles from home.

— Drew, 7, to Hamilton, 5819 Westminster Place in the West End, which until this year was an all-black elementary school.

— Dana, 13, to the neighborhood school that educated all her older brothers and sisters, now Dewey Middle School, 6247 Clayton Avenue.

Propelled by the order of a federal judge and carried on school buses, the two older Maness children became reluctant adventurers. Twice each day, they cross what was once the northern boundary of their world — Lindell Boulevard.

They approached the prospect with dread and resentment. The family had only a general impression of northern parts of the city, the one conveyed by news reports of violent crime.

And they had little reason to doubt the accuracy of those reports. Mrs. Maness' father died near the neighborhood of Drew's new school shortly after being abducted and brutally beaten there.

Wednesday — the opening day of school — was a day of tension for the family. And there was a frustrating series of minor disappointments amid a series of frustrations.

The family's relatively new frost-free refrigerator went on the blink two days earlier, spoiling meat, leftovers, and worst of all, a gallon of milk. So, on the first day of school, Drew's cereal was dry and Mrs. Maness' coffee was black.

True to family predictions, Drew had difficulty keeping up with his pass to get onto the "Dog Bus." All elementary school buses were identified with a picture of an animal. One minute Drew's pass was in the right hip pocket of his new blue corderoy pants. The next minute, it was the object of an intensive search, which turned up the card in his shirt pocket.

Drew's brand-new pants came home Wednesday afternoon with a large L-shaped rip near the hem. "The fence did it," he explained cryptically.

Drew himself arrived mysteriously sweating and angry, a cover-up for a momentary lapse in his self-esteem. He got off the bus at the right stop, but then didn't know which of four sidewalks to take home.

The oven at Dawn's magnet school malfunctioned, and the hot tamales for lunch weren't so hot.

But there was a positive side to the week's ledger.

There was a compliment for Dana from a new black classmate on her bright, light-blue eyes; and the pleased pronouncement by Drew as he lumbered off the bus at Hamilton that "Hey, this looks like Dewey," his old school.

There was the discovery that Drew, for boredom and with his ability to lead teachers on a merry chase, had been assigned to the class of Gail Kramer, a young, no-nonsense disciplinarian.

"I think she'll handle him all right," Mrs. Maness told the family with a chuckle.

Mrs. Maness came away from Drew's first day at Hamilton comforted, if not yet entirely convinced, about the merits of the new arrangement.

Her comfort came in large part from an encounter with Richmond "Skip" Coburn, director of the Skinker-Debaliviere Community Council, one of the promoters of the redevelopment in the West End residential area.

Along with coffee, doughnuts and a carved-out watermelon stuffed with fresh fruit, Coburn and others from the neighborhood served South Side parents with enthusiastic descriptions of what will soon surround their children's school — a tree-dotted park and new brick homes and apartments. Coburn proferred a business card with a promise: "If you have any problems, call me."

It made him an ally, a flesh-and-blood person amid the faceless bureaucracy. And he dealt speedily with Mrs. Maness' first worry — safety at the children's bus stops in the early morning and dark afternoon of winter. Coburn said he would arrange a meeting soon of parents to work out a method of guaranteeing safety.

"That's my biggest worry now," Mrs. Maness said. "The children are protected in school, but not while they're waiting for those buses."

Desegregation also has touched the family's life in ways they never imagined. It started soon after a front-page story in last Sunday's Post-Dispatch, in which the Manesses told of their apprehension and resentment of busing.

First, there were the phone calls, so many that the Manesses had to have their phone number changed. Most were obscene.

Only one sounded like a black caller, irate, name-calling and accusing them of racism. Maness, the family's peacemaker, explained that the objection was to busing, not integration, and the conversation ended amiably.

Another call was from Atlanta, from the producer of a cable television talk show. He invited the Manesses to appear on the show. They were flattered, but they are unsure whether their finances will permit them to take the trip.

Maness still has visions of bus wrecks on icy streets. And both he and his wife still consider busing a foolish extravagance that will not deliver the promised goal — quality education for everyone.

But slowly, gingerly, and with some lingering doubts, the Manesses are coming to terms with their fears. And at least for the time being, they have

Good Sport
I Love My

Globe-Democrat Photo by John Bloomquist

Getting acquainted: For some students, like these youngsters on the playground at Woodward School, 725 Bellerive Blvd., desegregation has meant the chance to make new friends. From left are Christy Tisdale, Stephanie Macklin, Dianna Schley and Carolyn Henderson.

School Attendance Jumps

180

Officials ironing out desegregation wrinkles

9/5

By CHARLES E. BURGESS
Globe-Democrat Education Writer

As a peaceful pattern of desegregation continued Thursday in St. Louis Public Schools and attendance jumped to 83.7 percent, administrators turned their attention to ironing out some of the wrinkles that have surfaced in the generally smooth operation.

Good morning news

"We know that all the superlatives we can think of about the success mean little to the kids who are still missing buses or teachers who don't have permanent assignments," said an aide to Superintendent Robert E. Wentz.

The substantial increase in attendance pleased school officials. The 83.7 percent attendance compared to 86.4 percent attendance on the second day of classes last year. On opening day Wednesday, 73.8 percent of the projected 63,000 students reported for classes.

"WE HAVE 20 to 25 more pupils today and but I don't really expect everyone until the first of the week. It's usually that way," said Cornelia Flower, principal of Blow Middle School.

Wentz said the administration is aware that the eventual enrollment, which won't be considered firm until around Oct. 1, may not reach the projection.

"We don't know what the effects of desegregation will be, but based on what has happened I hope we would be relatively close to the projection," he said.

School ring dilemma 6A

One promising development was the registration of new students in the system. On Wednesday, 350 new students registered and 85 more had registered by mid-afternoon Thursday.

THIS YEAR the processing of students who were not enrolled in St. Louis Public Schools in the preceding year is being handled by a special Central Recruitment and Counseling Center at 1520 S. Grand Blvd. It has satellites operating until Sept. 12 at Central High School, the Visual and Performing Arts Center, and Scullin and Garfield schools.

School board President Gordon L. Benson, while expressing elation at the opening day operation, said some problems were getting immediate attention.

Among the problems: Students missed on bus routes, late delivery of lunches to at least one school, a shortage of school crossing guards, an overcrowded school and unresolved faculty assignments.

"Some of our kids still weren't picked up this morning and were brought by cabs or parents, but not as many as yesterday," said Dorothy Branding, principal of the Montessori school.

MORE BUSES were arriving on time Thursday than Wednesday, according to several principals, but those on the third tier (each bus has three runs each morning and afternoon) were running up to 40 minutes late, one principal said.

Michael J. Summers, supervisor of transportation and purchasing, said some children were delivered to schools Thursday by the system's roving guards, but "as far as I know we had to call out only one backup bus."

The backup replaced a bus that

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Officials pleased with rise in attendance

Globe-Democrat Photo by Bob Moore

School officials discovered they had a shortage of crossing guards Thursday morning, but Leonard Homes was on duty helping youngsters make it through the intersection of Laclede Avenue and Compton Street.

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TION

collided with a parked car at Highland Drive and Oakland Avenue. No children were aboard at the time, and the driver and monitor were not injured, Summers said.

Marian Cotter, school system manager of desegregation information, said more than 700 calls came to the informational Straight Story Line, 231-6066, Wednesday.

"IT'S STEADY today, but it looks like we'll have half as many," she said Thursday. The calls are about evenly divided between reports of transportation problems and requests for program information, she added.

David R. Page, director of food services, reported no food delivering problems Thursday.

The crossing guard shortage surfaced because many guards who manned the 147 crossing points last year are ineligible now, said William A. Pearson, school system assistant superintendent for governmental operations.

About 80 crossing guards are on duty now, and police are temporarily assisting at other crossings, he said. An effort is being made through recommendations by principals to fill all positions by Monday, he added.

THE GUARDS are employed through a special $250,000 federal Comprehensive Employment and Training Act grant, Pearson said.

The overcrowding at Cote Brilliante School, 2616 Cora Ave., will be relieved if U.S. District Judge James H. Meredith approves, as expected, of the opening of Marshall Branch School, 4342 Aldine Ave. It was one of 27 schools closed after the 1979-1980 school year.

Associate Superintendent Michael Werner said the eight-classroom Marshall Branch, built in 1883, was cleaned Wednesday afternoon and furnishings were moved in Thursday. "It is in good shape," he said.

Area II Superintendent Julius C. Dix said about 116 pupils of the projected 622 enrollment of Cote Brilliante would probably be reassigned to Marshall Branch. The crowding resulted from a late requirement to use three classrooms at Cote Brilliante for special education, leaving only basement space for some regular classes, he said.

WHILE some shuffling of teachers continued, the reassignment of non-teaching workers to meet court-approved racial quotas at each school was completed before classes began, said John Rauscher, system director of non-certified personnel.

Thirty-two white workers and 35 blacks — clerks, nurses, custodians and teacher aides — were shifted to make each school reflect the systemwide non-certified ratio of 74.3 percent black, 25.7 white, he said.

Kathleen McDonald, administrative assistant for certified (teaching) personnel, said the personnel office is contacting schools to verify actual staffing needs, based on teachers reporting Wednesday and Thursday. "We are in a state where a number of adjustments will have to be made," she said.

ALL TEACHERS have assignments, some of them temporary, she said. The principal remaining shortages are in industrial arts and physics, but teachers are being surveyed for qualifications before new hiring begins, she said.

Discussions continued Thursday for the third consecutive day between representatives of the administration and the St. Louis Teachers Union on employment terms for the current school year. The 1979-1980 conditions have been extended through Sept. 15, with any agreement being retroactive to July 1.

James Johnson, a former president of the teachers union, said he has refused a temporary assignment and was told by the Area I office that he might be removed from the system payroll. He said he would challenge that action in court if necessary.

JOHNSON said that he and dozens of other teachers have been designated for "comparability" assignments. These normally are made around Oct. 1 under federal requirements for operating "Title I" schools. Those schools receive special aid because of high percentages of low-income students. Comparability means that an equal amount of local money is spent for Title I schools and non-Title I schools, including teacher salaries.

Johnson, an elementary mathematics teacher in the system for 14 years, said the assignment is professionally demeaning and does not allow accumulation of building seniority.

'St. Louis Simply Has A History Of Not Over-Reacting'

9/7/80

By Sally Bixby Defty
Of the Post-Dispatch Staff

A HIGH SCHOOL PRINCIPAL says desegregation of the St. Louis public schools began so smoothly because of "the dedication and loyalty of a professional teacher corps."

The federal judge responsible for the desegregation plan says the secret of success was "very simple. You had everybody in town, from John Poelker to Lou Brock, behind it and seeing that the people were informed."

A nationally known desegregation expert explains it this way: "The most dangerous time was kept short in St. Louis — that period between when forced desegregation first looms as a possibility and the point at which it becomes an inevitability."

The question these and other desegregation experts were pondering was this: Why did things go so well here? There was relative calm in St. Louis during the development of a highly complex desegregation plan after the March 3 order by a federal appellate court. And things remained calm when schools opened Wednesday.

The answers remind one of what happened when several blind men were asked to describe an elephant. Each ran his hands over only one part and proceeded to describe an elephant as a large snake, a spear, a fan, a tree trunk, a wall and a rope.

Some desegregation participants gave a single broad explanation. One of these was Otis Jackson, program director of the Danforth Foundation, and one of 10 blacks on the 20-member Citizens Desegregation Committee appointed by Senior U.S. District Court Judge James H. Meredith to advise the school district every step of the way as it put together a plan. The committee participated in heated debate and functioned as sort of a lightning rod for angry response from the community.

"St. Louis simply has a history of not over-reacting," said Jackson, who went through the city schools before going on to get a Ph.D. "We have the same major social and economic ills as cities where there has been trouble. But here, both the black and the white communities historically react in a low key way, even if their feelings are just as intense as those of the Bostonians."

Some believe that a multiplicity of tiny details helped defuse a potentially explosive situation.

CLEVELAND HIGH SCHOOL, 87 per cent white last year and integrated this year, was considered a possible powder keg Wednesday morning. Students arriving there were greeted by smiling, orange-jerseyed members of the football team who handed out their room assignment sheets.

The team is known as the "Dutchmen," reflecting the German roots of the South Side community, but no one made cracks about the number of black "Dutchmen." Because football practice started Aug. 11, team members had gotten a three-week jump on integration, and the smiling solidarity of these big men on campus set the tone for their peers. Chalk one up for Albert Kemsch, principal, whose idea it was.

Tuesday and Wednesday a total of nearly 2,000 St. Louisans called the school district's "Straight Story Line," a bank of 16 telephones set up in late April, to get information on bus routes, pickup points, school opening times and even assignments.

Anyone who has tried to call the regular school district telephone number in the last three weeks has met with a seemingly impenetrable wall of busy signals. But the straight story line had its own phone number, and calls were answered promptly by 20 volunteers. It is hard to calculate how much the availability of information through the special line lessened frustrations and fears as the back to school countdown accelerated. Chalk one up for the Marian Cotter of the district's public affairs department.

MISS COTTER said that last spring many callers were after a different kind of information. They demanded to know why anyone should submit to forced busing, and what could be done to stop it. Many of the calls were acrimonious and abusive.

This confirms the opinion of Gary A. Orfield, who says that the most volatile period in a desegregation attempt is before its inevitability becomes fact.

Orfield is a nationally known desegregation expert. He was appointed by Meredith as consultant on March 14, just 11 days after the 8th U.S. Circuit Court of Appeals had overturned Meredith's 1975 consent decree and demanded that the schools be integrated.

Orfield said here Friday that it was of critical importance that the school board had decided within 10 days of the appellate order not to appeal it. Of equal importance, Orfield said, was the drafting of the highly complicated plan within the 60-day limit set by the court, and Meredith's issuing his order approving the plan a mere 19 days after that.

That period when desegregation is a probability that may possibly be

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avoided in when polarization can become so extreme that unity may never be achieved, he said.

THE SAME DAY that Orfield was named consultant, Edward T. Foote was tapped by Meredith to serve as chairman of the Citizens Desegregation Committee.

Foote, former dean of Washington University Law School, said the key to success was a mental shifting of gears in the community once the plan was approved by Meredith on May 21. "That marked a watershed," Foote said.

"Before that, we and the community had been debating the merits and demerits of the plan. After that, it came down to a completely different debate among the citizenry: 'Will we or will we not obey the court, the law?' There is a huge difference," he said. "Many communities have foundered because they were not able to make that transition."

Orfield said it was crucial that "the school board did not spend its time shooting itself in the foot. They (the members) accepted the mandate of the Court of Appeals.

"Because of this, no judge wrote the plan; it was the board's plan. People opposed to it could not find educational leaders, board members, to say it was no good, it was dangerous. There was no one for opposition to rally around," Orfield said.

"And of course, the district staff leadership is going to work harder on implementing successfully a plan it designed itself — not a plan imposed on them by a judge," Orfield said.

IN THE MID-1970s, School Board opposition to court ordered desegregation had helped fuel violence in the Boston and Louisville schools.

When the 8th Circuit decision — unanimous and forceful — came down March 3, Gordon L. Benson, president of the board for only six months then, says he had no idea how his 11 colleagues would respond to the order to integrate this fall. He called a special meeting for March 5.

Benson says he went into that session with the feeling that "the flavor of the community indicated the board would appeal." The meeting lasted for four hours of what Benson recalls as "very vigorous debate." A decision was made not to ask for a stay — a delay — of the order. Members wanted time to think about whether to appeal.

Benson called a second meeting for March 12, at which the board voted not to appeal, but to go ahead with a desegregation plan.

Benson said that it had taken him, and the majority of his colleagues, just those 10 days and two meetings to realize that the court order was really "an opportunity to make some educational improvements that would not have been possible without it."

Edward T. Foote

Community "shifted gears"

THE DESEGREGATION PLAN, as finally approved, included not merely racial balance for half the students in the system, but establishment of middle schools educators believe will be a boon to the city system.

The district had long wanted to provide students in grades 6 through 8 with their own schools tailored to their special needs. A single middle school can provide laboratory, library and home economics and industrial arts facilities to students brought in from three or four elementary schools that the district could never hope to furnish to each school when it spanned kindergarten through Grade 8. But the district did not have the funds for implementing a middle school plan with those improved educational facilities.

When the court order was seen as a means to those ends, as well as to desegregation, a corner was turned. "The board was unified from then on," Benson said.

And the future? Reinsch, the Cleveland High School principal, believes desegregation will continue to go well for the same reason he thinks opening day went without incident.

"I realize a lot of planning went on districtwide," Reinsch said, "but what made it work and will keep it working is the dedication and loyalty of the professional teachers' corps, and administrators who are not clock watchers, who put in 12 to 15-hour days the last few weeks.

"It was appreciated that we got a lot of support from the community and the media," Reinsch said, "but even without it, our people would have done just what they did. The success will be due to something deep inside the hearts and souls of individual teachers — a love of children and a commitment to what we believe is the noblest profession of them all."

Right Bus, Right Place, Mostly Right Time

By Kevin Horrigan 9/8/80
Of the Post-Dispatch Staff

With the precision of a military convoy, the buses of the Gateway School Service rolled out of three terminals around the city at dawn to begin collecting 15,000 students on 480 runs on the first day of the court-ordered desegregation of St. Louis public schools.

Some of the precision quickly evaporated, but with a few notable exceptions, most of the buses managed to find most of their assigned students and take them to their proper destination. "To put it simply," said one bus company officer, "the first day is always hell."

Phil Kratzert, transportation coordinator for the St. Louis Board of Education, said there were twice as many snafus reported this year as last year — and there are twice as many children being bused this year as last.

But at Kratzert's office at 1520 South Grand Boulevard, reports from bus drivers, monitors and students indicated that by and large the complicated busing system devised by the School Board worked well. Kratzert estimated that 95 percent of the students caught the right bus at the right place and at more or less the right time.

The transportation office received about 200 calls from parents or school administrators, most of them seeking information. There were, however, 32 reports of late buses or students late at bus stops, and two of the bus service's 379 vehicles suffered mechanical problems along the way. They were quickly replaced with other vehicles, and most of the students arrived at their destinations only slightly late.

Another bus was involved in a minor traffic accident in the Baden area, but the two students aboard were quickly transferred to a second bus and no injuries were reported.

The bus service held several vehicles in reserve as relief vehicles, and they were quickly pressed into service.

One of the longest delays was reported at Seventh and Cole streets, where 20 children waited more than 80 minutes for the bus to take them to Blow Middle School, 516 Loughborough Avenue. The bus, which had been due at 7 a.m., never appeared. A backup bus was dispatched at 7:55 a.m., and it was more than half an hour late. By that time, many of the students had become tired of waiting and went home.

At least one of the waiting students was upset at the delay. Andrew Johnson, a 12-year-old who started seventh grade today, said, "I don't think much of this desegregation anyway."

Delays also plagued buses going to two of the district's magnet schools. Ten students, bound for the Health Careers Center, a magnet school at 1530 South Grand Boulevard, were stranded for an hour at their pickup point, Fanning Middle School, 3417 Grace Avenue. Another group bound for the Academy of Mathematics and Science, 4275 Clarence Avenue, was stranded at their pickup point, Sherman Elementary School, 3842 Flad Avenue.

"I feel bad that we had students standing on corners for extended periods of time," said Gordon L. Benson, president of the School Board. "But if that is the extent of the problems, I think we're doing fine."

With so many buses coming and going, some students became confused. Two pupils assigned to Dewey Middle School, 6746 Clayton Avenue, found themselves stepping off a bus at Hamilton Elementary School, 5819 Westminster Place. Hamilton principal John Bernard quickly called for transportation for the confused youngsters.

Four pupils who arrived at Long Middle School, 5028 Morganford Road, baffled administrators. The pupils were not assigned to Long, and administrators had to call around to find out where they were assigned.

(Contributing to this story were Howard S. Goller, Linda Lockhart, Marjorie Mandel, Jan Paul and Patricia Rice, all of the Post-Dispatch staff.)

Police Security Plans Idle As Schools Open

By Roy Malone
Of the Post-Dispatch Staff

9/9/80

The security precautions set up to cope with possible trouble associated with the court-ordered desegregation of the St. Louis public schools were awesome, including possible deployment of 900 extra officers and the formation of a special squad to go into a school to handle trouble.

But such measures were unnecessary.

St. Louis police said no incidents of disorderly conduct were reported this morning and a rumor that demonstrators had turned up at one elementary school were checked out and found to be false.

"I'm elated over the way the citizens of St. Louis have apparently accepted court-ordered busing," said Lt. Col. William E. Brown, assistant chief of police who headed up an elaborate police security operation.

Brown said the department's plan has "gone 99 percent smoothly. It has been well coordinated and well carried out."

Sam Miller, in charge of security for the school district, confirmed there were no incidents of disorderliness, only situations where students missed rides due to snafus in the bus routes.

Many meetings were held between Board of Education officials and top commanders of the Police Department. Other than releasing information that a massive security force had been assembled, details of the police strategies were kept secret.

The police beefed up regular patrol personnel by more than 400 officers, most of them detectives who were in uniform.

Days off were canceled so that 200 extra officers could be added to each of the first two shifts and 50 on the night shift. Police Chief Eugene J. Camp said the extra manpower would be available through Friday.

A separate command post was established at police headquarters with extra dispatchers handling calls and evaluating situations.

Brown last summer was in charge of the transferring of patients from Homer G. Phillips Hospital and the handling of demonstrators who objected to the city's closing of Phillips as a general hospital.

Officers were assigned to each of the city's 10 regular high schools. Juvenile officers and extra patrol cars were assigned to the four high schools where it was felt there might be trouble — Cleveland, Soldan, Southwest and Roosevelt.

The school district had more than 100 guards at the high schools. These guards were not armed, although 20 other school district guards, on roving assignments, were armed.

The school district hired and trained adult monitors to ride each of the 170 school buses. The monitors were equipped with two-way radios.

In some cases, school security personnel who were cruising in autos, picked up students who were left standing at bus pickup points. One such incident occurred when a driver's list of students he was to pick up was different from the monitor's, causing some students to be left at one pickup point.

Miller said the roving guards were instructed to make sure no students were left standing at pickup points, even if they had to transport the students.

Brown said critiques of the operations were scheduled for 5 p.m. each day with school officials. He said that by Friday, the police may reduce its manpower to 100 extra men if conditions remain as stable as they were the first day of busing.

(Information for this story was supplied by Becky McReynolds, Ralph Williams and Victor Volland).

ST. LOUIS SCHOOLS—A St. Louis teacher entertains a group of elementary school boys. Schools in St. Louis this past year implemented a major desegregation plan, peacefully and successfully. That's one thing that's good about education in St. Louis.

The Missouri School Board July 10, 1981

Another side of St. Louis' story presented

St. Louis has gotten a lot of publicity lately—almost all of it bad. It has lost the largest percentage of population in the last decade of any major city, down by nearly 28% since 1970. In most stories on the plight of America's older cities, St. Louis has replaced Newark as the worst-off city in the nation. And the Brookings Institution recently made it official by dubbing the one-time "Gateway to the West" the most "distressed" city in America.

But it has also received very little attention for implementing in the past year, peacefully and successfully, a major desegregation plan. "Our board was united on this," said Supt. Robert Wentz. "Once the decision came down, the board jelled behind the plan."

The St. Louis system has been in limbo for years as various desegregation plans were put forth. Most went nowhere. But finally last March, the district court ordered full-scale desegregation for the city schools. Another plan to merge the city and suburban schools is still in court.

Wentz also attributed the early success to support from the business community, city government, media and, surprisingly, parochial schools.

"The leaders of this community pulled together behind the plan," Wentz said. Major corporations—Monsanto, Emerson Electric, McDonnell-Douglas and Ralston-Purina—lent staff members to the schools. Business and cultural institutions also formed partnerships with individual schools, he added. Leaders of the city's strong Catholic school system made it clear they wouldn't provide a haven for those seeking to escape desegregation, Wentz said.

"The local media did an outstanding job," said William Pearson, director of governmental relations. Not only did the newspapers and TV stations support peaceful integration through editorials, they helped publicize the many educational options available to students. The new system of magnet schools was an integral part of the integration plan, but parents and students had to learn what was available. "The media also didn't give a platform to the small splinter groups which opposed the plan," Pearson said.

Wentz and Pearson both felt the school program was stronger than before desegregation. But big budget cuts could change that. The extra state and federal aid has "made the difference between an ordinary program and an outstanding one that can attract students" from all over the city, Pearson said.

The desegregation plan cost about $22 million in its first year, with half provided by the state of Missouri under the court order. The city's share included $7 million of federal Emergency School Aid Act (ESAA) funds.

"It would be catastrophic if we lost 25%," Pearson said, because that would also mean a 25% cut in the state's share. Recently, the U.S. Senate subcommittee on Labor-HEW appropriations preserved most of the "special projects" fund where St. Louis will get most of its money. The school system also will be hit hard by cuts in Title I and impact aid for students in public housing.

Still, with the odds against them, St. Louis school officials have persevered. "So far, we have to feel good about what's happened," Pearson said.

Reprinted from *Education USA*, May 25, 1981.

APPENDIX B

POPULATION/ENROLLMENT
& PERCENT BLACK
ST. LOUIS CITY & ST. LOUIS PUBLIC SCHOOLS
1940 TO 1980

YEAR	POPULATION ST. LOUIS CITY	PERCENT BLACK	YEAR	PUBLIC SCHOOL ENROLLMENT	PERCENT BLACK
1940	816,000	13.3	1942*	95,392	21.9
1950	857,000	17.9	1953*	89,475	34.5
1960	750,000	28.6	1962*	108,245	55.4
1970	622,000	40.9	1970	111,233	65.6
1980	453,000	45.6	1980	62,750	78.9
1940 to 1980	-363,000 - 44.5%	+32.3%		- 48,483 (from 1970) - 56.4% (since 1970)	+57.0%

*Closest year to Census year that data are available.

ST. LOUIS PUBLIC SCHOOL TRANSPORTED STUDENTS

Average Daily Counts:		
	1977-78	9,401
	1978-79	7,153
	1979-80	7,169
	1980-81	12,639
	1981-82	14,866

PERCENT BLACK 1975-1976 TO 1981-1982
(By School)

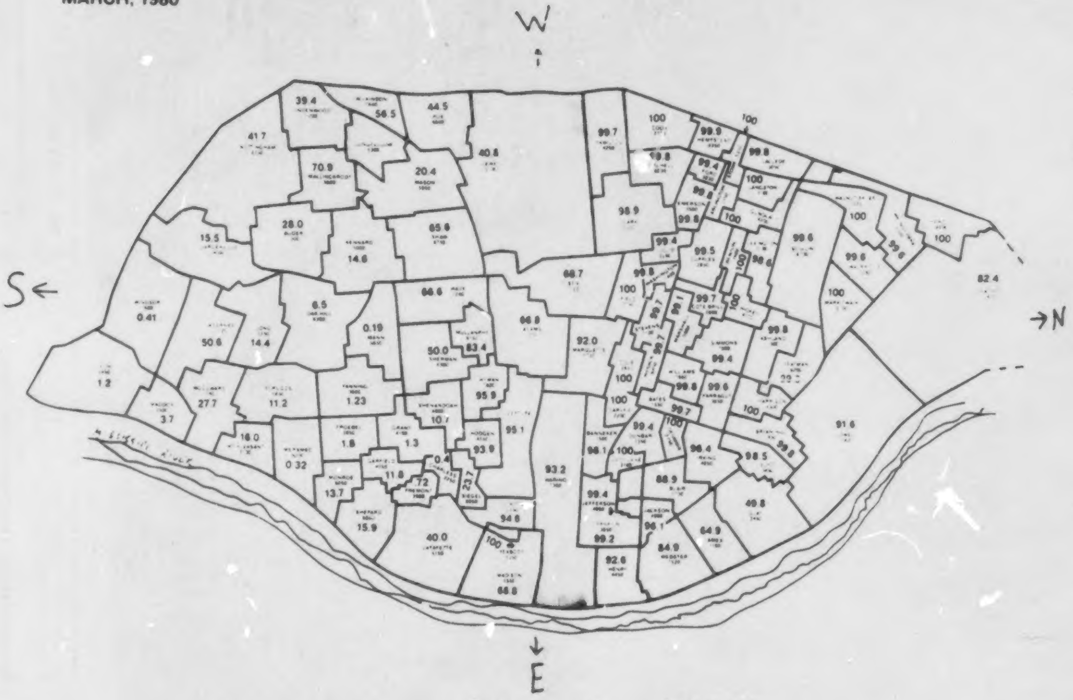
Percent Black	1975-1976 No. of schools	1979-1980 No. of Schools	1980-1981 (10/21/80) No. of Schools	1981-1982 (9/25/81) No. Of Schools
Less than 30%	46	28	0	2
30-49%	3	8	28	23
50-69%	3	15	22	29
70%+	101	90	66	65
TOTAL	153	141	116	119

ST. LOUIS PUBLIC SCHOOLS RACIAL STATISTICS
03/16/81

WHITE	BLACK	INDIAN	ORIENTAL	SPANISH	OTHER	INV.	BLACK PERCENT	TOTAL
12,345	47,684	14	165	121	32	77	78.99	60,438

ST. LOUIS PUBLIC SCHOOLS BASE SCHOOL ATTENDANCE AREAS

PERCENT BLACK ENROLLMENT
MARCH, 1980


W
S
N
E
MISSISSIPPI RIVER
39.4
56.5
44.5
41.7
40.8
70.9
20.4
28.0
15.5
14.6
65.6
6.5
0.41
50.6
14.4
0.19
66.6
83.4
50.0
SHERMAN
66.8
1.2
3.7
27.7
11.2
1.23
10.7
SHENANDOAH
95.9
16.0
0.32
1.8
1.3
93.9
HODGEN
95.1
0.4
23.7
SIGEL
11.8
.72
FREMONT
13.7
MONROE
15.9
SHEPARD
40.0
LAFAYETTE
94.8
100
68.8
MADISON
93.2
99.7
100
99.9
100
99.8
99.4
99.8
100
98.9
99.8
100
99.4
99.5
100
98.6
99.6
100
99.6
99.6
100
82.4
68.7
99.8
100
99.7
99.1
99.7
100
99.7
99.8
ASHLAND
92.0
MARQUETTE
99.7
SIMMONS
99.4
100
99.8
99.6
100
BATES
99.7
100
100
99.4
DUNBAR
100
96.1
100
96.4
IRVING
98.5
99.8
91.6
88.9
BLAIR
99.4
JEFFERSON
JACKSON
96.1
99.2
49.8
64.9
84.9
WEBSTER
92.6

APPENDIX C

FACT SHEET NO. 16*

SCHOOL TRANSPORTATION

School Buses Are the Most Common Means for Getting to School
Transportation Costs Vary Widely

Census Department figures show that in 1978 nearly half (47%) of the nation's public school students rode buses to school. One-third walked or rode bikes and one-fifth traveled by car.

This Fact Sheet presents information about school transportation in the nation and in St. Louis metropolitan area. Transportation for desegregation also is discussed.

Development of Transportation Programs

The proportion of the nation's students who are bused has risen steadily—from 12% in 1936 to 35% in 1956 to today's near-majority. Missouri figures are even higher, in 1979-80 more than 60% of the state's public school students were transported to school at public expense.

Before the 1930s one-room schoolhouses in the country and walk-in neighborhood schools in the cities largely obviated the need for school buses. However in subsequent decades several factors combined to produce a dramatic increase in school transportation programs. One factor, particularly significant in rural areas, was the school consolidation movement which replaced one-room schools with larger ones drawing students from more extensive geographic areas. Proponents of the school consolidation movement and associated transportation costs contend that consolidation permits major improvements in the quality and the efficiency of schools. Opponents cite the high cost of transportation and the destruction of community identity.

A second factor contributing to the growth of student transportation was the nation's increased demand for specialized schools such as area vocational schools and schools for the handicapped. Because of their unique programs such schools must serve large attendance areas in order to draw sufficient numbers of students. High costs and long bus rides are common, but are accepted because of the attractiveness of the educational programs at the end of the ride.

A third contributor to the increase in busing was suburbanization. Since mid-century millions of families have settled in the suburbs, where the newcomers have demanded good schools and transportation to them. Today the yellow bus is as familiar in the suburbs as it is in rural areas.

Transportation Management and Costs

The provision of safe, reliable, and efficient school transportation services requires local school officials to make many decisions. Some involve technical matters such as safety standards, maintenance schedules, and driver selection. Other decisions are much more sensitive. Which students are to be eligible and which are not? How far should students be expected to walk between their homes and the bus stop? Should school starting times be staggered so that buses can make multiple runs? Should transportation be provided for after-school activities? Should educators run transportation programs or should the task be contracted out to specialists? The answers to such questions affect not only the families and schools served by the buses, but also taxpayers.

In absolute terms school transportation programs are expensive. In 1976 the nation spent $2.5 billion for school transportation. In different terms the cost was $104 per year for each child transported. Inflation recently has boosted costs sharply; in Missouri the average annual cost per student jumped from $101 in 1975-76 to $181 in 1979-80.

In relative terms the cost does not appear to be so high. Total school expenditures in 1976-77 were $63 billion, thus transportation was only 4% of the total. Moreover these figures do not show the efficiency gains and qualitative improvements that are made possible by school transportation programs. Evidently the benefits are real, for few people argue for elimination or reduction of existing school transportation programs. In fact voters in several St. Louis County school districts voted in 1978-79 to authorize busing for students who otherwise would be ineligible.

Average transportation cost figures conceal huge local cost variations. School transportation costs are a function of a number of factors, just as the cost of driving a car depends on a number of factors (e.g., distance traveled, number of passengers, speed, number of stops, fuel efficiency, maintenance, and insurance). Among the principal determinants of school transportation costs are these:

1. Decisions about quality and efficiency—Transportation costs can be reduced by staggering school starting times, by requiring students to walk to designated pick-up points, by limiting the use of buses for field trips and after-school activities, by minimizing the number of back-up vehicles, and so forth. But such cost-minimization measures reduce the convenience, reliability, and possibly the safety of school transportation.

2. Student density—When the students who are scheduled to ride a particular bus are located within a relatively compact area costs are minimal because there is a minimum number of stops and miles needed to fill the bus. Such conditions exist in many suburbs and in cities where an entire load of children can be picked up from a few subdivisions or blocks. However in other situations density is low, as in rural areas. Densi-

ty also is low in metropolitan areas where students attend unique schools such as vocational schools, schools for the handicapped, or magnet schools. In such situations a bus picks up one student here and another there, thus creating increases in time, distance and cost.

3. Student characteristics—Handicapping conditions often require additional expenditures for special equipment, bus aides, or door-to-door service.

4. Vehicle ownership—In communities with good public transit systems students often are provided with tokens. The cost to the school district usually is low, inasmuch as most public transit is subsidized from non-school tax sources. Where public transit is not available a district may own and operate its own bus fleet, or it may contract for the service; the relative cost-effectiveness of these two approaches depends upon unique local circumstances.

School Transportation in Metropolitan St. Louis

In St. Louis County the proportion of students bused grew from 39% in 1962-63 to 47% in 1967-1968 to 51% in 1972-3 to 56% in 1977-78. The percentage varies from district to district. For example in 1978-79 Clayton transported none of its students whereas Mehlville transported more than three-fourths of its students. School districts in the County use both school-owned and contractor-owned bus fleets.

School transportation in the city has been less common. Prior to desegregation, transportation was provided for only 12% of the city's students—principally those in vocational and special education programs and in overcrowded schools. Public transit, school-owned buses, and contracted buses were used.

In 1977-78 student transportation costs amounted to $14 million for the city, county and Special districts combined. Although this was no small sum, it amounted to only 3.7% of school operating expenses. Costs varied widely from district to district. In 1978-79 the average annual cost per transported student was less than $90 in six districts, but it was over $200 in two districts and over $600 in the Special District. The reasons for such variations were discussed above.

In Missouri transportation costs are paid jointly from local school taxes and from state transportation reimbursement funds. Decisions about the quality (and hence the cost) of local school transportation programs are locally determined. However the proportion of costs which can be recovered through state reimbursement is determined by statutes and by state board of education rules. At present Missouri reimbursement rules are essentially as follows: (1) The state board of education defines "allowable" (reimburseable) costs. Allowable cost regulations determine whether there can be state reimbursement for items such as bus aides. (2) The state reimburses 80% of allowable costs, leaving the local district to pay for 20% of allowable costs plus any unallowable costs. (3) If a district's allowable costs exceed 125% of the statewide average per pupil transportation cost (currently $226 per year) the district is not reimbursed for the excess.

Transportation for Desegregation

In the years immediately after the 1954 *Brown* decision transportation was not a major issue in school desegregation. Indeed in many southern districts *Brown* meant a decrease in transportation, as it no longer was necessary to maintain dual transportation systems or to send black students to out-of-district schools. However in later years when desegregation came to large metropolitan areas with extensive residential segregation, transportation became a common technique for overcoming school racial isolation. In a 1971 decision the Supreme Court unanimously held that busing was an acceptable technique in the design of desegregation plans *(Swann v. Charlotte-Mecklenberg)*.

Today transportation is an important ingredient in both voluntary and mandatory desegregation programs. Voluntary interdistrict programs in Milwaukee, Rochester, Hartford and Boston rely upon transportation to get students to the schools and programs they have chosen to attend. The five-year old voluntary magnet schools program in St. Louis is similarly dependent upon transportation. Implementation of the recently-approved city-county plan for voluntary desegregation of vocational education also depends upon transportation (as did the previous programs operated separately by the city and county).

Mandatory student reassignment is at the core of desegregation programs in cities such as Denver and Columbus and in interdistrict programs such as those in Indianapolis and Louisville. There has been some mandatory reassignment in the St. Louis city plan (see Fact Sheet No. 4). Even with voluntary and mandatory desegregation, St. Louis still transports less than one-fourth of its students. Court-ordered merger of the Ferguson, Berkeley, and Kinlock districts in St. Louis county resulted in an increase in transportation; school officials indicate that the proportion bused increased from 34% before merger to 40% after merger (see Fact Sheet No. 3 for details on this merger).

The costs of desegregation-related transportation are impossible to calculate in the absence of concrete information as to the number and density and destination of participating students. Moreover generalizations from one community to another are hazardous because of differences in the quality of transportation services, use of public transit, efficiency, and availability of contracted services.

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[*] This is No. 16 in a series of Fact Sheets designed to provide interested laypersons with basic information about metropolitan approaches to the reduction of racial isolation. The series, made possible by a grant from the Conference on Education, is prepared by the Center for the Study of Law in Education, Box 1183, Washington University, St. Louis, Missouri 63130 (314) 889-6722. There are no restrictions on duplication of the Fact Sheets. 7/81

Mr. **Edwards**. You may proceed.

TESTIMONY OF MARJORIE WEIR, IMMEDIATE PAST PRESIDENT, BOARD OF EDUCATION, ST. LOUIS PUBLIC SCHOOLS, ST. LOUIS, MO.; AND ROBERT E. WENTZ, SUPERINTENDENT, ST. LOUIS PUBLIC SCHOOLS, ST. LOUIS, MO.

Mrs. **Weir**. Good afternoon. Before beginning, we would like to thank the committee for the opportunity to appear before you, and I would like to outline the approach that we are going to take to our oral statement. I have some words to say and then Dr. Wentz has some information to share and then I will conclude, and then at that time, we would be delighted to entertain questions.

As the chairman has indicated, last year the St. Louis public schools successfully began a desegregation plan under court order. Both of us, Superintendent Robert E. Wentz and I, Marjorie Weir, at that time vice president and then president of the St. Louis Board of Education, have been deeply involved in that process.

Our testimony before you today makes several assertions—that St. Louis still feels the impact of once legally mandated segregation and must struggle to overcome it, that determined and constructive leadership can produce positive results in that effort, that desegregation can be the occasion for making necessary and desirable changes toward the improvement of student achievement, that transportation has a long history as the basic tool in both the public and private education of America's children, and that Congress should continue and enhance the methods by which desegregation can be effectively accomplished.

Our perspective on desegregation involves the recognition that achieving a society free from racial discrimination is a national goal which must be viewed with pressing urgency. It is an obligation born of our Nation's fundamental assertion that all men are created equal. The 13th, 14th, and 15th amendments to the Constitution confirm this principle by extending the guarantee of equality to all without regard to race. Whatever dark chapters human nature has written in America's social history, we know that our Nation was not constituted to enshrine power, privilege, convenience, and complacency, but to guarantee us civil liberties.

The real conquest of racial discrimination will not be accomplished by a single act, court order, or master stroke. The desegregation of our society will take the uninterrupted and determined effort of us all. We find ourselves somewhere on a continuum between slavery and racial equality. We must persist in our movement in the direction of that just goal for our Nation's honor's sake.

We feel St. Louis is moving in the right direction on that continuum. The year just past is spoken of as "Year One," because it was the first year of a court-ordered desegregation plan. As significant as that year was, in no sense was it the beginning of desegregation in our system.

Prior to 1954, St. Louis schools were race-segregated by State law. In the school year immediately following the *Brown* decision, the city school board took action to dismantle the dual system within its boundaries. From 1954 to 1972 decisions concerning desegregation were made in the system outside the context of the courts. In 1972, a class action desegregation suit was filed by black parents in north St. Louis. Time does not permit a reiteration of the evolution of this case. But, in short, in 1979 the judge's decision in the case supported the school board's contention that it was not liable for segregation. On appeal, the Eighth Circuit Court of Appeals reversed that decision. This ruling, made on March 3, 1980, gave the school system 60 days, until May 2, 1980, to devise and submit to the court a plan for desegregation of the school system to begin in the following September, a short 4 months later.

This was done in the time allotted and, with minor modifications was ordered on May 21, 1980. After having pursued a vigorous defense of its action, the board of education was confronted in 1980 with a crucial choice upon announcement of the Eighth Circuit Court of Appeals decision. Simply stated, it was, "Shall we or shall we not appeal?" The board of education examined the situation carefully with the superintendent and came to a decision aimed at serving the best interests of the St. Louis community. That decision was not to appeal and to put our full and sincere effort toward an educationally sound and effective desegregation plan. And with the cooperation of many civic, religious, and cultural leaders, the St. Louis community accepted and, in most cases, rallied behind the effort to comply with the orders of the court in a responsible and law-abiding way.

None of this was easy. All of it required some change or sacrifice from someone, but the leadership had decided to build rather than to destroy. The citizens, especially our students, made that decision work. In fact, on the first day of school at Soldan High School, the local students greeted those arriving on the buses with ribbons carrying the slogan, "Let's make it work."

No more apt slogan could have been found for the attitude with which responsible people approached the challenge. As a result, the name of our city is not a smear on America's face. Several other realities entered into our decision on this matter and should be cited. Even had we appealed, we would have had to comply with the order of the court, a plan would have been written with or without our cooperation and leadership. Had we chosen to appeal, the planning process would certainly have been under enormous suspicion and attack, simply on the grounds that we could not be sincerely devising a plan while seeking to avoid it. That seemed to us a formula for confusion, confrontation, and contempt.

Another important factor in the decision not to appeal was that the order, in fact, offered some solutions to problems which had been nagging us throughout the case. The order pointed in the direction of the definition of a desegregated school—a definition that recognized that stable desegregation is the goal. It gave direction as to the course an acceptable plan might take and left the planning in the hands of the school board. This was especially attractive to us, given the alternative of a court-appointed master doing the job.

The court also signaled its concern about the responsibility of the State of Missouri, housing authorities at the State, county, and city levels, and suburban school districts surrounding St. Louis, a concern which we had previously pressed without success in both legislative and judicial sectors.

The appellate court's acknowledgement of the involvement of districts in our metropolitan area was significantly encouraging to our board. Perhaps the most significant consideration of our board was the opportunity afforded by the court order to make some changes which would provide new learning situations for our students, which we felt could increase their academic achievement, respond more appropriately and economically to the social needs of their different age groups, and increase the number of educational options which could be offered to them. In sum, what we did was to forgo appeal, and turn what many have seen as an occasion for revolt into an opportunity for educational change.

Dr. WENTZ. With the unanimous support and direction of the board of education, 14 staff members representing teachers, principals, support personnel and central office personnel were directed to devote full time to the task of drafting a plan consistent with the court order and which would bring improved educational opportunities to the young people in the St. Louis public schools. Working openly and cooperatively with a court-appointed committee of 20 citizens, the board submitted an education-based desegregation plan within the required time line.

Prior to desegregation, the St. Louis public schools followed a traditional organizational pattern of grades K-8 for elementary schools and grades 9-12 for high schools. The desegregation plan changed the organizational structure to grades K-5 for elementary schools, grades 6-8 for middle schools and grades 9-12 for high schools. This allows for specific programing for the respective ages of students and opens a number of new learning opportunities.

For example, by concentrating larger numbers of students in grades 6-8 in a middle school, we could provide industrial arts, home economics, laboratory science, fully equipped and [illegible] libraries and full-time counselors, thus producing a much stronger curricular and cocurricular program.

To provide some exciting new programs, we developed several new and expanded magnet schools, such as a Montessori school, an athletic and academic academy, a center for expressive and receptive arts, and expanded gifted program—classical junior academy—an additional individually guided education school; a business, management and finance center; a health careers center and a naval junior ROTC academy. In addition, we expanded the honors art and honors music programs, started a secondary level gifted program—the senior classical academy—and incorporated a mass media program into one of our regular high schools.

The system developed and implemented a variety of new and improved services. Expanded career education, expanded school partnerships with business, cultural and higher education enterprises, a new English as a second language program, pairing and sharing programs involving city and county schools, a revitalized thrust of parent involvement and a special student leadership program are some of the excellent programmatic emphases that resulted from a strong, education-based desegregation plan.

To implement these programs and fulfill the requirements of the courts, it was necessary to use a number of buses as a means to an end. The year before the court-ordered desegregation plan, we transported approximately 7,200 students, and we used 3.10 percent of our total financial resources for this purpose.

In the first year of desegregation, we transported approximately 13,000 students, which is approximately 21 percent of our total student population, and we used 4.64 percent of our total financial resources to accomplish this end.

You might expect that the implementation of a desegregation plan of this magnitude would somewhat distract the schools from their primary mission. Such was not the case. Three years ago, we in the St. Louis public schools halted a 10-year trend in declining test scores. Our scores did not at that time go up, but they did not continue to decline. The next year, 1979-80, saw a slight improvement in scores. Last year St. Louis students' scores on the California achievement test showed improved performance above anticipated or expected growth in grades 1-11.

We are presently ahead of our 10-year plan to bring student scores up to or above national averages. We are proud of this accomplishment, which we feel demonstrates that a system of our size can both carry out a major desegregation program and continue to improve in the area of academic achievement.

As pointed out earlier, desegregation is a process requiring continual effort and a constant search for better solutions to an extremely complex, legal, educational and social issue. In this context, however, transportation for desegregation is not unique in the historical annals of public education in the United States. Transportation has consistently, efficiently and effectively been used as a means to an end. In other words, the yellow bus has transported students who live too far from their neighborhood school to schools for the handicapped, to area vocational schools, to schools in newly reorganized school districts—thereby crossing traditional school boundaries—and to private and parochial schools.

Transportation has seldom been viewed as wrong, dangerous or wasteful when used for the aforementioned purposes. It is only when transportation is used to desegregate schools that the yellow bus becomes a detestable tool of alleged social planners.

At the turn of the century our schools were attempting to keep pace with a rapidly developing industrialized nation. The Federal Government became intimately involved in providing financial resources for vocational training in the 1920's and 1930's. It became obvious to educators that regional or areawide vocational schools would provide a higher level of specialized training to a much larger number of students at a more economical cost.

In 1945-46 there were 101,382 school systems in the United States. In 1979-80 there were only 15,929 school systems. This reduction represents some major policy shifts in determining how we would provide educational services to young people. Legislators, boards of education and educators made an important decision to consolidate school systems in order to take advantage of the economics of combined resources and at the same time offer broader curricula.

In addition, it should be pointed out that the majority of private and parochial schools which provide educational services to thousands of young people all across this Nation would have to close their doors if transportation were not available to get their students to school, as most of them live significant distances from their school of attendance.

For these reasons, the proportion of the Nation's students who are bused has risen steadily—from 12 percent in 1936 to 35 percent in 1956 to today's near majority. And I should add that a very, very small percentage of that has anything whatsoever to do with desegregation. Missouri figures are even higher. In 1979-80 more than 60 percent of the State's public school students were transported to schools at public expense.

There is a movement within the Congress to place limitations on the means to accomplish desegregation, a move to enshrine the neighborhood school as national policy. The irony of such a policy is that a majority of the students today in our country do not attend neighborhood schools since 50 percent must reach school by bus. If limitations are placed on school systems and courts by not allowing transportation to be used to accomplish desegregation, will the same limitation be placed on transportation to schools for vocational education, special education, and to other schools that serve a large geographical area? We know that the answer is a resounding no. The effort, therefore, to restrict a means to accomplish a mandated educational and social goal—desegregation—has to be interpreted as an effort to abandon that goal.

We vigorously oppose these efforts at transportation restrictions and their purpose—to derail the integration of schools and society.

A significant percentage in number of our black students still attend segregated schools. We have implemented enrichment programs in these racially isolated schools to improve curricular opportunities. But such programs cannot be offered as a substitute for desegregation that promises a stable, healthy, vibrant, integrated metropolitan community.

Many more positive things can be said about our desegregation plan, our students, our parents, our staff and our community, but we believe that message has been clearly stated. Desegregation is right. It can be carried out in such a way as to benefit the children and the community, and it holds forth the promise of improvement and growth.

Before Mrs. Weir gives some suggested recommendations for the community, let me just share a letter I received on October 23 from one of our parents this year that I think, in very simple terms, tells the story. This was written to a principal who I'm sure feels quite good about it.

> As I walked up the steps of the school the other day, I stopped long enough to take a look around me. I liked what I saw, so I smiled. I was greeted by you as I waited for Eddie to come from his room. I really felt welcome and you made me feel even more welcome when you asked me how Eddie liked the school.
>
> This is a new experience for both Terrell and Eddie. They are learning from experience about integration and different cultures. It is easier to live with something if you are around it more, than to live with something that you know nothing about.

There's more to the letter, in simple terms, much of desegregation is related to achievement. That is however, only a small part of the total. Mrs. Weir will have a little more to say on that.

Mrs. **Weir**. In closing, we want to make a few points about the future direction of desegregation in St. Louis and in the Nation's cities generally.

We are here because your committee has before it a number of initiatives which are aimed at changing the direction of school desegregation from those approaches begun by the *Brown* decision and detailed in subsequent decisions.

Certainly, those approaches have had dramatic effects on the educational and social scene. Many would have us believe that none of these effects was positive. They seek to abandon any procedure which would actively promote desegregation in our schools. "Natural desegregation is fine," they say. "If neighborhoods are integrated, let black and white children attend school together."

Sophisticated adults know, however, that neighborhoods are not integrating or remaining integrated at any significant level in our Nation's metropolitan areas. Division by race in city and suburban neighborhoods are deepening. What is needed is not a retreat from the objective, but an expansion of the methods by which it may be accomplished.

Virtually alone among governmental agencies, public schools have had the job of repairing America's divided house. Ill-supported in battle, they have not always approached that job as vigorously and as enthusiastically as, in retrospect, they could or should have.

It is time now to enlarge the list of those whose activities must focus responsibly on the desegregation of our society. Desegregation cannot, however, be erased from the priorities of our Nation's schools, which exist to prepare each new generation for the responsible enjoyment of a free and democratic society.

In St. Louis the board of education has faced its responsibility to pursue desegregation by seeking the inclusion of suburban school districts and certain housing agencies in our current litigation. We have done so for a few very simple reasons, the first being that our desegregation plan, though touching all students in some way, actually has placed only approximately half of our students in integrated settings. Our black-white ratio is too imbalanced to involve all students and still achieve a situation that anyone would describe as integrated.

We feel it is incumbent upon us to provide some way in which all students might ultimately be provided a desegregated educational experience. Our surrounding suburban communities are preponderantly white, although a pattern of racial division is developing among them which generally imitates that in St. Louis—north, black; south, white.

Demographers assert that by 1990 our suburban areas will be 50 percent black, and those blacks will be racially concentrated. Another basic reason behind our efforts to expand this case is our view that this problem is a regional one with roots in our past as a state in which segregation in education and housing was the law, and where black children were moved across many school district boundaries in order to separate them from their white neighbors.

It seems to us that the country's leadership is toying with the idea of an enforced return to the philosophy and practice embodied in *Plessy* v. *Ferguson* and a repudiation of the *Brown* decision and its corollaries.

We cannot overemphasize our concern about the damage that such a retreat would cause. As Justice Warren said in writing the unanimous opinion of the Supreme Court in the *Brown* case, "In approaching this problem, we cannot turn the clock back to 1868 when the amendment was adopted or even to 1896 when *Plessy* v. *Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation."

Therefore, we urge this committee and the Congress to resist the movement to cripple the desegregation efforts with antibusing measures, and to reinvest in desegregation by reenacting and increasing funding through the Emergency School Aid Act. Such funding is critical in stimulating constructive educational change and in maintaining high quality programs for children in desegregated settings.

Erosion or withdrawal of funding for these programs would be an abdication of responsibility on the part of the national leadership.

We further urge this committee to enact housing legislation which is helpful to the objective of an integrated society. Past practices in Federal housing have sometimes served to further entrench racial divisions in housing and, therefore, in schools.

Finally, we ask that you review carefully the educational role and responsibility of the Federal Government in supporting the mandates of the Constitution and pursue public policy that continues to recognize our obligation to overcome segregation.

Thank you.

Mr. **Edwards**. Thank you very much for both of your excellent statements.

The gentleman from Wisconsin, Mr. Sensenbrenner.

Mr. **Sensenbrenner**. Yes. Thank you very much, Mr. Chairman. I have a number of questions to ask the witnesses from the St. Louis School District.

I don't think I misheard your statement when you said that all the schools in your district have not been completely integrated, basically because there are not enough white people left in the St. Louis School District to integrate. Is that correct?

Mrs. **Weir**. That's correct.

Mr. **Sensenbrenner**. So you are attempting to consolidate the suburban St. Louis school districts with the city district in order to get more white pupils so that there can be integration in all of the schools in the St. Louis metropolitan area?

Mrs. **Weir**. That's true.

Mr. **Sensenbrenner**. How do you answer the argument that suburban parents can't vote, they don't pay taxes, they would not have any direct say if their kids were bused across the school district boundary line into the St. Louis City School District?

Mrs. **Weir**. We've always assumed that any finding that resulted in any kind of mandated plan would follow extensive hearings and would involve the opportunity for all of those people to present their position and therefore, be represented both in court and in the planning for any final solution.

Dr. **Wentz**. I think also part of that is no different than when we went through the significant reorganization of school districts, particularly in the 1940's, 1950's and 1960's, and that same question was raised at that time, and having experienced one of those reorganized districts—the response to that is that you restructure in order to provide that voice on an equitable basis, no different than we have throughout the history in the last five decades.

Mr. SENSENBRENNER. I would assume that Missouri is little different than Wisconsin and the reorganization of school districts that took place in Wisconsin during the 1940's and 1950's basically resulted in an abolition of one-room schoolhouses as well as non-operating school districts that raised taxes and paid tuition to send their pupils to a neighboring school district. I think that that is significantly different from the thesis which you are proposing to this committee today.

Basically, I think what you're saying is that it's up to the school system in the St. Louis area to solve the problems that are caused by segregated residential housing patterns, and in that sense, people have decided where they're going to live, that black people congregate in certain areas and white people congregate in other areas, and it's up to you folks to decide to overturn the individual decisions that have been made in terms of integration. Is that correct?

Dr. WENTZ. Well, I don't think it's quite that simple in terms of making decisions that would respond to all of the issues about housing.

Mr. SENSENBRENNER. You yourself said that within the next 10 years the residential housing patterns in the suburbs are going to be the same as the residential housing patterns in the city with the result that the northern suburbs would be substantially black and the southern suburbs would be substantially white.

Dr. WENTZ. That's correct, and part of that is not necessarily a simple matter of choice that I'm going to move in that particular direction. Limitations on where one can move and the ease of that movement and the receptivity to that movement, I think, have considerable impact upon that, so it is not just a matter of deciding.

Mr. SENSENBRENNER. Do you have any documentation to prove what you just said?

Dr. WENTZ. Yes, which is going to be a matter of the continuing litigation—we have considerable documentation of the issue going from restrictive covenants up through current process of redlining and a host of other things. I don't have that and I don't know that it's——

Mr. SENSENBRENNER. Did the plaintiffs who brought the class action suit which resulted in the court order which you have described today attempt to bring in suburban school districts as dependents?

Dr. WENTZ. The original litigants that started the current litigation?

Mr. SENSENBRENNER. Yes.

Dr. WENTZ. No.

Mr. SENSENBRENNER. So after you've lost the current litigation, a remedy has been applied by the court, then you're turning around and attempting to bring the suburban school districts into the second stage of the remedy. Is that correct?

Mrs. WEIR. Not exactly.

Mr. **Sensenbrenner**. But aren't you trying to abolish suburban school districts so you can consolidate them with the St. Louis District into a metropolitan district?

Mrs. **Weir**. Well, the ultimate solution to this problem certainly would involve some redrawing, I must assume. However, we simply think it's not a——

Mr. **Sensenbrenner**. So you think that a court should be redrawing those school district boundary lines rather than using the legislative process which created the redrawing of school district boundary lines which you praised so much in the 1940's and 1950's?

Dr. **Wentz**. No. Let me just look at it in a historical perspective. The St. Louis public schools didn't wait until they had lost the lawsuit to address the issue of a metropolitan remedy. That was addressed in the 1960's. It was addressed in time when they were doing some reorganization, and interestingly enough, proposals that dealt with reorganization within the metropolitan area came to a screeching halt, even though it was going on all over the State. I am convinced that because of the nature of the population, the metropolitan area had considerable influence on that particular decision. So it was proposed before there was litigation. It was proposed initially at litigation by the St. Louis public schools, and it doesn't necessarily call for just a metropolitan school district. I think there are other alternatives. It may be the expanding of the St. Louis public schools, as it's now constituted, in different governmental arrangements. So, it's not a matter of a massive metropolitan district. I think there are alternative approaches.

Therefore, it is not a matter of, "Well, we lost and now we're going to involve some others."

Mr. **Sensenbrenner**. I'm still somewhat puzzled with your response. You lost your case in court. You decided not to appeal. The suburban school districts were not a party to that action. Now, after you lost your case in court, you are attempting to bring them in to be a party to that action, to force some kind of reorganization of the school districts in the metropolitan St. Louis area.

Now, if we're talking about American principles, one American principle is that everybody should have his day in court and I think that fair is fair. If the suburbs were in any way accused of unconstitutional racial activity, they should have been a party to this lawsuit right from the very beginning rather than having you lose your lawsuit on the first bout and then attempt to bring them in to provide for or be part of the remedy that has resulted from your being adjudged guilty in the initial litigation.

Dr. **Wentz**. I couldn't agree with you more.

Mr. **Sensenbrenner**. OK.

Mrs. **Weir**. It was the consistent contention throughout litigation that the other districts were involved in the reason that the school system was segregated. It was a part of the history of Missouri before 1954 that those boundary lines did not have the significance that they have acquired since.

Mr. **Sensenbrenner**. But you were adjudged guilty by the court and the court imposed a remedy on your school district and now you're saying that other people who were not adjudged guilty by the court, whom you think are guilty, ought to be made a part of that remedy in the metropolitan sense, and that, I think, is unfair to the suburban area. I think that everybody ought to have his day in court. In a case like Wilmington, Del., the suburbs were in right from the very beginning.

Here you're attempting to bring them in after you lost the first round.

Dr. **WENTZ**. No. Let's get it in perspective now. We asked in 1973 that they be involved. The court said at that time it was untimely. That was the court's response. First of all, we tried the basic principle that you expounded. We exercised. We went the legislative route.

Mr. **SENSENBRENNER**. And the legislature said no.

Dr. **WENTZ**. The basic principle of our Government is if you can't do it that way there is another remedy, and that's what we're attempting to use. Now, we are not asking that they be involved in a remedy until they've had their day in court. We believe that they are entitled to their day in court. We want them to have their day in court. We want them to present their evidentiary material and we will do likewise. That's the process of the court.

We're not asking that a metropolitan remedy be handed down until that process is finished. That's why we filed the cross-claim so that they would be a part of the litigation.

Mr. **SENSENBRENNER**. From what I hear you saying, strike one was called against you in the court in 1973. Strike two was called against you in the legislature between 1973 and the present time, and now because strike three has been called against you in the court as far as your district is concerned, you're trying to make the outlying areas take part in some kind of remedy resulting from a court decision which has ordered the school desegregation plan to be in effect.

I think that's what Mr. Emerson was saying during the course of his testimony and I think he's right. I yield back the balance of my time.

Dr. **WENTZ**. I think that in that process, again, a very fundamental one in our country, simply because you have 3 strikes, you may have 10 strikes. You continue to pursue what you believe is right. That doesn't mean you give up on a basic principle that's handed down by the courts in a major decision in terms of desegregation. I think there's got to be some stable solution. That's what we're looking for. If it should involve us and other county districts, then I think we ought to look for that kind of solution that's in the best interest of everyone.

Mrs. **WEIR**. I think it may be useful to point out, too, that during the course of the litigation the school system, though contending that it was not liable for segregated conditions, cooperated in efforts to alleviate those decisions, through a consent decree which came apart for a lot of reasons which are in the written testimony, and that our position has never been to be obstructionist; simply to establish that we were the constituted authority to run the school system. Given the fact that that was overturned by the court of appeals, we've taken a constructive, I think, approach to resolving the problem in the interest of all those people we serve.

Mr. **EDWARDS**. Mr. Lungren?

Mr **LUNGREN**. Thank you, Mr. Chairman.

First of all, I'd like to say that although I may disagree on some points we're talking about here, I think it is commendable that elected leaders in positions of authority with respect to running a school district, make sure that they do comply with the law, whatever that law might be, and do not attempt at any point in time to be obstructionist.

I commend you and your district for that.

However, on one point which was made by you, Dr. Wentz, you suggested that the principle involved here is desegregation and I really wonder in some of the comments you made whether you're talking about desegregation, that is, overcoming the vestiges of State-sanctioned segregation, or whether you perceive part of the responsibility of the school district to be an affirmative obligation to engage in integration, because I think they can be two different principles. Do you see them as such? If so, what do you think your responsibility is and do you think that busing is necessary for both?

Dr. WENTZ. I believe that we have an affirmative responsibility to promote the basic principles of desegregation which should lead toward integration. I believe that for a variety of reasons, but primarily as we look at health and vitality of our metropolitan centers. Obviously, we haven't found the right answers. Obviously, there are things that I believe can be done that can enhance integration and bring about a much more stable situation for the entire community and I think promote the kind of goals as far as achievement, productive adulthood, contributions to the community that would provide better answers than we've had in the last 30 years; and I think, yes, that we have a responsibility to do that.

The busing aspect of that, it may involve some transportation. I think each metropolitan area has uniqueness of its own. I'm not convinced yet that that would call for any increased transportation. It may be different patterns of transportation in our metropolitan area. When you have over 50 percent already being transported, the question is whether it'll be the same pattern.

Mr. LUNGREN. We had an experience in Los Angeles, which is outside of my district but close by; there we had a tremendously increased requirement for transportation, and children were required to be on freeways for as long as 1 hour and 20 minutes each way because of an effort which ultimately was overturned. I can't conceive of the argument that transportation would be the same if you are saying that you are going to transport children purely to come up with some sort of ratio for minority groups, and that that would not incur more transportation.

If you told me what you've told me in your testimony that there's north St. Louis and south St. Louis and they are identifiable in terms of racial composition, then, in order to have a mix of the two it just seems to me to be absolutely open and shut that you've got to have more transportation.

Dr. WENTZ. Well, we haven't put together the pieces of the total metropolitan area and, as I've pointed out, each metropolitan area has its uniqueness. As you point out, Los Angeles does. There may be different kinds of solutions.

Mr. LUNGREN. I'm just talking about St. Louis. You said you'd combine north St. Louis and south St. Louis.

Dr. WENTZ. That's right.

Mr. LUNGREN. I'm trying to figure out how you can do that without more transportation.

Dr. WENTZ. Well, at the present time the transportation within the city only constitutes 21 percent of our student population. If you look at the metropolitan area and the location of students, yes, some students that are not now transported would be transported.

The question becomes one, and no one has worked out the details of that, would that be more, the same, or less? One would have to put that to a different configuration, cutting across different kinds of school boundary lines than is now done, and no one has really done that carefully. So one can't say what the increase or decrease or sameness would be.

Mr. LUNGREN. Doctor, I wasn't here for Congressman Emerson's testimony but I do have his written statement and in there it states the point that he's aware that three out of four St. Louis residents are opposed to forced busing, and that includes 60 percent of the blacks. If, in fact, it is working as well as you're suggesting it's working in achieving educational benefits, why is there resistance on the part of the community, including 60 percent of the black families?

Dr. WENTZ. I don't know for sure what particular poll was used.

Mr. LUNGREN. The St. Louis Post-Dispatch, I understand.

Dr. WENTZ. And what methodology was used, and I can't provide an answer to that.

I do know in relationship to what was prior to desegregation, what is based upon surveys that we've done, where we've concentrated on results, student achievement, the school climate, compatibility, we've had positive responses. So, it's a matter of what you're going to look at.

Does a person prefer if the school is across the street or down the street to go there as opposed to anyplace else? I think that that's generally going to be a positive response, that they would prefer to go there. I don't see that changing, but when you have a mix of students and they've come from different places, the question then becomes one of the results, what has happened, what has been provided, and how do the people feel about that. Hopefully, you get a positive response. We've been getting a positive response to that kind of question.

Mr. LUNGREN. For instance, in Los Angeles one of the efforts which has been made involves the magnet school concept, the concept of grouping high academic achievement programs in schools which may be located in minority identified communities in order to achieve integration of a voluntary nature based on those things which people would, I would assume, want in terms of an educational structure. That is, academic achievement and specialized programs.

It's my understanding from your testimony that you have followed that in your overall programing in St. Louis. Is that correct?

Dr. WENTZ. Yes. That's a part of it.

Mr. LUNGREN. That leads me to my next question. In your dual statement you suggest that the country's leadership is toying with the idea of an enforced return to the philosophy and practice embodied in *Plessey* v. *Ferguson*. You indicated that those of us who may support initiatives to ban busing would change the direction of school desegregation from those approaches outlined first in the 1954 *Brown* decision and detailed in subsequent decisions. Don't you think that people can legitimately and in good faith disagree with you, that the remedy of busing, the problems of busing, may outweigh its usefulness and, that in fact, we can be as dedicated as you are to getting quality education for students of all ages based on some of these other approaches and not, in fact, be dedicated to turning us back to the days of *Plessey* v. *Ferguson?*

Mrs. WEIR. I never question the motives of anybody who takes a different position on this issue.

Mr. LUNGREN. Well, his motives are questioned in your very statement.

Mrs. WEIR. Well, the consideration that perhaps since desegregation has——

Mr. LUNGREN. You talk about contemplating the repudiation of the *Brown* decision. You talk about us returning to *Plessey* v. *Ferguson*, 1896. You talk about us attempting to try and go away from the approaches outlined in the 1954 *Brown* decision. I don't recall the *Brown* decision talking about busing.

Mrs. WEIR. The point is it does not tolerate the concept of a separate school system being legitimate and the directions that we're taking now are going to enforce a separate school system unless other measures are taken that assist a desegregation effort in other areas such as housing, especially, but those initiatives which we may not even have dreamed up to take some of the burden of the need to overcome this problem from the shoulders of the public school system, which are well suited for dealing with them but not alone and I think that, though I don't question the motives in terms of sincerity, I think that it ought to be reviewed in the light that a bus is a bus is a bus. It's what the bus is being used for that has to be examined and we are very much concerned that it has become the issue to cloud the fact that there is deep concern about the agenda of desegregation.

Mr. LUNGREN. Well, if you say to a parent, no matter whether it's a white parent or a black parent, "You can go to your neighborhood school. However, we have a bus available for you to go down to a magnet school in another area in which we have better academic programs," that's one thing. It's another thing to say to that parent, "There is a school nearby but your child isn't going to go there because your child is black," or "Your child is white." But instead, "We have determined, because of the racial mix we have decided ought to exist in our schools, your child is going to have to go elsewhere." Now, don't you think that raises some questions in the mind of a parent as to whether the child is in fact being utilized for the purpose of coming up with some concept of what the right percentage is in a particular school district as opposed to being the beneficiary of concern about the best educational benefits the child might receive?

Mrs. WEIR. I'm sure it raises quite a few concerns. The fact is the unknown always creates concern. But, we have found that by taking the approach we have, that is emphasizing that we are concerned with what's at the end of the bus ride, and this was a major concern of the board, not that we are looking strictly for ratios and achieving a mathematical kind of desegregation without undergirding it with a good educational program. We think that's made the difference.

Mr. **Lungren**. I'm really trying to get at the basis of what you think the educational imperative is here. I traveled across the country this summer with my family and went to areas of the country I've never been before. Some areas were absolutely all white. Some were all Indian. I passed through some areas that were all black. Are you suggesting that a family that finds itself in a community that's all white or all Indian or all black and therefore has no members of another race to go to school with are somehow being deprived of an equal educational opportunity or is it because the prior pattern of State-sanctioned separate school systems, in which they were not equal, in which, in fact, if you went to the minority-oriented school you did not receive an adequate education, that the vestiges of that require some action to overcome the inequality of educational opportunity?

Mrs. **Weir**. I think the latter description applies to our situation much better than the former.

Our school system in the area bused black children to individual schools across many county and district school lines and there is still the remaining pattern that that established. Many of those children were bused from the suburbs into St. Louis and it became easier to live there. Those patterns remain though the times have changed perspectives.

Mr. **Lungren**. Let me ask this. If we were to have adopted in the Constitution a constitutional amendment which has been spoken of in terms of prohibiting the use of busing for racial purposes, it would still, in school districts such as yours, provide the opportunity for magnet schools. It would still allow, as a remedy in fact, a court to impose a requirement for new schools to be built in certain neighborhoods so that you wouldn't have actual attempts at segregating students. Do you think the fact that busing, and we're just talking about busing based on racial assignment only, that taking that remedy away from you would make it impossible for you to achieve equality of educational opportunities in your school district?

Dr. **Wentz**. I think as far as the total solution, a stable solution, a long-term solution, that it will place a limitation on that. As you commented, obviously there are different views and that's what we're here for, to state some of our views and to state some of the differences.

Mr. **Lungren**. No, I understand that. I'm just trying to find out why you think that's the case.

Dr. **Wentz**. I think that as one looks at our metropolitan areas one has to come to the conclusion that the kinds of solutions thus far have not been lasting solutions. They have not, in fact, brought people with clear focus upon what ought to be done and how it ought to be done, and in fact, I think has hindered a variety of efforts to have a productive society, in the business world as well as in the educational world.

Certainly there has to be some more stable, more effective ways to deal with that and to prepare the people for a rather complex society, and that's really part of the whole story.

Mr. **Lungren**. Does busing really accomplish that? In other words, I really wonder about this. You have a student who is told from the moment he goes to school that he is going to go to a school not because it's the school available to him, not because it offers educational opportunities to him, but because he is a part of an identifiable racial group, be it white, be it black, be it Indian, be it, in my area, Hispanic or Southeast Asian. You are telling that child, essentially, that he is going to be the subject of direct social action, not because of anything that he is as an individual but because his membership in a particular racial group.

Don't you think there are some problems with that?

Dr. **Wentz**. Sure.

Mr. **Lungren**. Don't you think that that might, in fact, raise difficulties with respect to racial tolerance and successful racial integration?

Dr. **Wentz**. The other side of that coin, I guess, Congressman, is do you think that there are problems because they have been isolated and do you think that we have found an adequate solution because they have been isolated? Isolation generally, when it comes to minorities, particularly with blacks, particularly with Mexican Americans also surrounds itself with poverty and I think that as long as that exists, no matter how much we say, "Well, let's put more money there, let's do more things," and so on, that we've had adequate time and history to do that and to respond to that and it has not happened. When 50 percent of those young people are on the unemployment lines and you're supposed to motivate them to face the real world, even those with the skills, I'm not talking about that category of the nonreader, but I'm talking about those with the skills but they can't find that job and we're saying that it has nothing whatsoever to do with race, it has nothing whatsoever to do with where they live and where they're confined to. I think it does and I think there has to be better solutions.

Mr. **Lungren**. You see, I don't understand why you assume that it's because they are in a school that is identifiably one race or another. Some recent studies have shown that Catholic schools in Chicago are predominantly minority and they're sitting side by side with public schools there and the kids in the parochial schools are primarily non-Catholic, by the way, and these studies have shown that they're coming from the same basic socioeconomic background as the public school students there, and those kids are doing well. Now, they're isolated not only by race because they're an identifiable minority school, be it Catholic, but they're also isolated, so to speak, because they're going to the Catholic school rather than the public school. Don't you think that the important factor is the quality of the educational environment in which they find themselves as opposed to the idea they're going to a different school?

Dr. **Wentz**. I think it's the quality of what's in the building. I don't think that simply drawing that example, say that they found a solution that is going to, in fact, resolve the issue in that particular area. No, I don't. And I'm pleased that they've done well with the students and I can draw from individual schools anyplace and still achieve it. So you can do it as far as achievement; I think we're looking at a much broader issue than that. I think we're dealing with a much more complex issue than that and I think that there has to be solutions that are long term.

Mr. LUNGREN. I know we're dealing with a complex issue but I'm trying to get at your fundamental proposition that somehow because they're in an identifiable racial pool, they are marked for failure rather than success. I don't understand how you reach that conclusion.

Dr. WENTZ. I'm not saying that. I am saying that the facts speak for themselves in terms of a significant population which is racially isolated. I am not saying that simply because you are attending a school, as a black, a Mexican American or what have you, that you're inferior and that you can't learn and that you have to be moved in order to learn.

I am saying that that total racial isolation is not healthy for that metropolitan area. It has not been healthy. It is not healthy today. It will not be healthy in the future.

Mr. LUNGREN. I'm saying can you attack that problem with magnet school systems, with consolidation of academic programs, and some specialized schools, and make a decision, for instance, to locate those in minority communities, and can't you deal with it that way rather than requiring a massive transportation program in which every child is told that he or she is being transported because of his or her race?

Dr. WENTZ. I think that's a partial solution. I don't think it's a total solution. We're using that.

One of our points of recommendations is to put money into that, which I think is working, and Congress is considering putting it in the block grants, which will not go to reinforce and to strengthen schools that are trying some things that are going to help the situation; and in fact is going to wash that out. It has been reduced significantly this past year and the very things that are working, the dollars are being diminished. So that if, again, the final recommendation is if that is a solution, and I gather that you think that it is at least one answer. I think it is too. I think it ought to be strengthened. I think resources ought to be put into that, but they're not.

Mr. LUNGREN. At the local level?

Dr. WENTZ. They are not at the Federal level. They got their initiative at the Federal level. They got reinforced at the local level, and the Federal level is going to take those away.

Mr. LUNGREN. Well, I've never understood how it's cheaper to take the money away from people in St. Louis and bring it here to Washington, have us transfer it through our great system here and give it back to them cheaper. That's a whole 'nother question.

Let me ask you this: What is the average bus ride of a St. Louis student?

Dr. WENTZ. The average would be about 15 to 20 minutes.

Mr. LUNGREN. What's the high end of it?

Dr. WENTZ. The high end would be about 45 minutes.

Mr. LUNGREN. Is there an opportunity for a student who wants to be involved in extracurricular activities at a particular school to be a part of the busing process?

Dr. WENTZ. Yes.

Mr. LUNGREN. And how does that work out?

Dr. WENTZ. Extracurricular buses.

Mrs. WEIR. Late buses.

Mr. LUNGREN. Is that identified based on the number of students who want to do it or is there a schedule established which in some way limits the extracurricular activity they can be involved in?

Dr. WENTZ. Thus far we haven't limited it at all.

Mr. LUNGREN. OK. Thank you very much, Mr. Chairman.

Mr. EDWARDS. To a certain extent what you're trying to do is to reverse the efforts of 200 years that resulted in total isolation of black and Hispanic students. They were isolated, even in the State of California, until 1946. We had some schools that only Japanese-American children could go to and we had segregated schools in California by law. We had laws all over the United States, especially in the South, that required the segregation of schools and you had them in Missouri and it worked out very badly. It worked out very, very badly. You had, really, two societies, with the black students not ever getting an opportunity to become a part of America and the same was true, to a certain extent, for the white children. They were not able to understand or assimilate with or be a part of the society that may be 10 percent of America. Isn't that correct?

Dr. WENTZ. That's correct.

Mr. EDWARDS. And the court found that that was bad for the kids, bad for the country, and that it had been done on purpose by, generally, the white establishment, through laws.

Now, in your effort to comply with the desegregation order, you did establish some magnet schools. Isn't that correct? Were they primarily or were they partially financed by Emergency School Aid Act funds?

Dr. WENTZ. Yes; they were, and we started those. This is the 6th year that we've had the magnet schools and the Emergency School Aid Act was extremely beneficial in providing the extras that were necessary to make them magnets.

Mr. EDWARDS. So, at the same time, as you pointed out that there is some effort here to take away the opportunity for transportation the Federal Government is also taking away those particular funds that aided magnet schools in your desegregation efforts. Is that correct?

Dr. WENTZ. There's no question about that.

Mr. EDWARDS. OK.

And the evidence that you have gathered in the St. Louis school system, is that desegregation has resulted in better schools. Isn't that correct?

Dr. WENTZ. There isn't any question in our minds.

Mr. EDWARDS. Would they have been better schools if the court hadn't given the order? What would have happened to the schools?

Dr. WENTZ. I don't think the kinds of changes within that period of time and the shifts that were made and the concentrated efforts would have happened as a total community without the impetus of that court order.

Mr. EDWARDS. That pattern seems to runs true. All of the evidence that we've had to date about quite a number of different areas where there have been efforts to desegregate, is that to make the system work better innovative ideas are tried, sometimes with

Federal assistance, and quite generally the entire educational system is elevated and made more interesting and more creative. Usually the schools score indicate that certainly the white kids' scores are not injured, but the black children's scores, educational scores, are modestly improved. Is that correct?

Dr. **Wentz**. That's correct.

Mr. **Edwards**. Now, we've also had some indication that, especially in inner cities, when schools are desegregated, white flight stops because it doesn't do any good to buy a house in a different part of the city in order to go to a segregated school. So you buy a house downtown or you buy it somewhere that you particularly care for reasons unrelated to the racial identity of the local school, so that there is a movement toward the integration of housing patterns. Have you found that in St. Louis?

Dr. **Wentz**. Well, it's very early in our plan. There is clearly some interesting redevelopment work going on, significantly, in St. Louis, and I see that as a very positive thing. Being a resident of one of those redeveloped areas, it is interesting to note the influx of families with children who are predominantly making use of the public schools and who bring in a new vitality. I think even though it's early, that that is going to be a continuing sign and certainly as part of our court order, any area that naturally integrates, there's no necessity to move anyone anywhere and they're exempt from any mandatory transportation.

The options are still available if they want to exercise them in terms of magnet schools. So, I think over time that there will be greater stability. Much of our instability was not as a result of busing. The instability came about long before there was any mandatory court order, any mandatory busing. Long before that. So, the instability was not a result of the court ordered busing. The instability was the result of a variety of decisions notwithstanding the reorganization that went on in the State, notwithstanding housing patterns and restrictive covenants and a variety of maneuvers that created some of the problem and some of the instability.

So, in our situation I hear a lot of people saying, "Look what happened because of mandatory busing," but all of those things that they talk about preceded any mandatory busing.

Mrs. **Weir**. I'd like to add too that I can cite individuals in significant numbers who have allied themselves with the public schools for the first time. Now that there is what they view to be a new day in our school system. There are a lot of options. We don't take the view that there is one place that students are assigned, period, and they have no other choices.

We have expanded the options but the options always existed. They have now been made more available to all the children. There were some restrictions in the earlier time when it was a strictly voluntary program, but the major point I'd like to make is that there are lots of white people who had not considered involvement in the public schools before who are considering it, who are actually engaging in it.

There are people from the county, our surrounding suburban school districts, who are traveling either with provided transportation or getting their children to our magnet schools as well, which indicates that they are willing to trust us with their children and I see a renewed contact. I think we forget that desegregation can be a growth experience for white people as well as a useful social opportunity for black people who've been isolated.

Mr. **Edwards**. Yes; of course it is. White families find out how beneficial it can be and are certainly going to be a lot easier to deal with. I understand what the gentleman from California, Mr. Lungren, is saying, and I think everybody would like to have the desegregatation of our schools on a nationwide basis without the pain of hard measures or any measures at all. We would love to have it just happen automatically or on the cheap with a few magnet schools and a few new schools and so forth, but there isn't anywhere that that's worked.

Or maybe there hasn't been any real effort toward it. Certainly there isn't at the present time a commitment in the country for schools or governments, State, Federal, or whatever, to put the necessary funds into the school systems to make the inner-city schools so crackerjack that everybody wants to go to them. There's no intention of doing that. I assure you there's none here in Washington.

Counsel?

Ms. **Cooper**. I'd like to ask you about the use of incentives in the intra-district plan as well as the inter-district transfers. What kind of incentives have been built into the intra-district plan to encourage participation and public acceptance of the plan?

Dr. **Wentz**. At the present time the incentives are not too dissimilar to the Wisconsin plan that was passed a few years ago. I think Wisconsin's is maybe a little stronger than ours. But if a student leaves the city of St. Louis and goes to a school in the county, then we still receive half of the State aid on that student, so that we don't lose all of our dollars. The school district that receives that student receives half the State aid that would come to us plus a difference between that, up to $1,250; plus 50 percent above what it costs to educate a child in that district.

So that fiscally, both receiving and sending districts are not hurt and in fact are helped, depending on how many participate. But they're not losing. It's a win-win situation for both.

Ms. **Cooper**. Does the plan exempt from the busing plan integrated neighborhoods?

Dr. **Wentz**. Yes, it does. On a voluntary basis, though, those students in an integrated neighborhood can exercise the options that are available to other students. But an integrated neighborhood is exempt.

Mrs. **Weir**. As long as that integrated neighborhood has—that the school in that integrated neighborhood is also integrated. There are a number of integrated neighborhoods in St. Louis that are not integrated in their school locally.

Ms. **Cooper**. So there's an incentive for people to move into integrated neighborhoods or stay in integrated neighborhoods?

Dr. **Wentz**. Yes.

Ms. **Cooper**. What about the proposal that was made, and I don't know whether it's been implemented or not, of paying college tuition for students who participate in inter-district transfers?

Dr. **Wentz**. That has not been implemented. Ultimately the court accepted a recommendation from the court expert that it be put to a test on a pilot situation. The details of how to implement that have not been worked out. It's a little complicated and it's not been done before. I should point out that there's nothing unique about that kind of incentive. We've used it in a variety of ways. We've used it in the military a number of times yet some criticize it as a tool in desegregation—it's been an effective tool in other situations and I don't know, nor does anybody else, whether it will in fact encourage students to participate or not. However, the details have not been worked out. If it is done, it will be done only on a small, pilot situation to test whether it helps at all.

Ms. **Cooper** On the question of the relationship between housing policies and school segregation, have the school board or other public officials taken steps to change the private and public practices and policies in housing in order to help create a more integrated residential patterns?

Dr. **Wentz**. Well, in the context of our court order, and it's one of the few that really did address the housing issue; Judge Meredith in handing down his order for desegregating the schools addressed housing. In doing so, several steps were called for, including study by the court expert and others. At this point in time there has not been a hearing on any of that study. There has not been a careful examination of the housing issues. In our cross claim on the continuing of the litigation we have made a specific point that housing authorities be involved in this so that the practices of housing can be looked at carefully. I think they have to be looked at carefully in order to, again, find a stable, long-term solution. It's not an overnight situation and certainly one of the weaknesses of addressing this issue is the fact that they have not been involved; so we've simply said that they should be. Gary Orfield has done a comprehensive study of the housing practices in our immediate area and certainly from our standpoint we've done a good bit of homework in relationship to the litigation on housing that will be a part of the record some time in the future. It has to come, in our opinion, hand in glove with overall efforts.

Ms. **Cooper**. As for the special programs in magnet school that you've implemented within the city, how can you or how do you know that you haven't just skimmed off the cream of the crop and left the poorer students behind?

Dr. **Wentz**. We started with a policy that I was pleased the board thought was an excellent policy and endorsed it unanimously. Our approach has been first come, first served. There are no entrance exams relating to those particular specialty schools. There are no auditions for the visual performing arts high school. It's based on interest of the students and interest of the parents.

If you look at the data that we have gathered on those students you will find that they represent a cross section of our student population in every conceivable way that you can look at them in terms of socioeconomic measures, in terms of academic measures, in terms of IQ measures. They look like our population. So we have good documentation that we haven't taken the top 10 percent, top 25 percent, off of each school and created some dynamic magnet schools and then said, "Look what we've done."

These schools represent kids as they are in our school system and are a good cross section and I think that that is a good way to go.

Ms. COOPER. Did you recruit for participation in this program?

Dr. WENTZ. Yes.

Ms. COOPER. How did you go about doing that? What are the techniques that you used?

Dr. WENTZ. A variety of ways. The most effective way that came about is a result of our court order. We have a recruitment and counseling center so that all new students who come through our system go through the recruitment counseling center and it gives them the opportunity to share information with parents and students about all the programs in our schools, the regular programs in the middle schools, the elementary schools and high schools and the specialty programs and I think that that has been most effective.

We've also gone from school to school not only with the magnets but other kinds of specialties that we have. We have a lot of part-time activity programs and we've simply gone from school to school. Our media has been extremely cooperative in providing a lot of information to our community, so that our community does know about programs because the media has been most helpful in sharing information with our community.

Ms. COOPER. In reviewing the clippings that you attach to your statement, it also appears that the media was also very evenhanded and supportive in what you were doing in the implementation stage.

Did the board take action to cultivate the press through a media consultant or other means?

Mrs. WEIR. From the beginning we decided that the more open that we could make the process the better it would be and all along the line when there were new plans devised they were explored in public with parent groups and interested parties in the media. I think that made a great deal of difference in terms of how accurately we were covered and how fairly we were treated. They weren't worried about what we were keeping from them.

Ms. COOPER. On the question of what happens in the schools that have been basically left out of the desegregation plan in the sense that there's no integration in those schools, is there any evidence so far that the remedial and compensatory programs in those schools are having any effect?

Dr. WENTZ. The early studies would indicate that the achievement has been very stable. It has been on a growth increase similar to other schools in the system. I don't know that we can necessarily say that the enrichment programs and some of the specific programs cause that particular result. I think it's a combination and we need more experience with that to come to those kinds of conclusions. I think it's a combination of some other emphases that the system has placed upon all schools in terms of performance standards and expectations and better planning site by site. The only thing we know at this time is that growth has been consistent in those schools, as consistent as it has been in other schools; but it's very early and I don't think that anyone can say with any certainty that it's a result, necessarily, of the enrichment programs or anything else. I think all you can say is that growth has been evident.

Mrs. Weir. We've taken a much more fundamental approach to the improvement of those schools than the addition of a single program. Most of those schools already had additional remedial programs in them and it was a conscious decision to alter the concept of remedial and compensatory to enrichment and that is an adjunct but it isn't meant to accomplish the whole goal and we have worked hard in terms of the fundamental planning, as Dr. Wentz said, that makes a change in the way the whole staff approaches the challenge.

Ms. Cooper. Earlier witnesses testified that parents and the community at large tend to rate integrated and white schools as good schools and black schools as bad schools, no matter what the evidence was on test scores, quality of the physical plant, resources, and so forth. Do you find that the schools that have been left out of the desegregation plan, the integration aspect, have a negative stigma attached to them?

Dr. Wentz. I think it's a mixed kind of reaction. We did some surveying this last year and we didn't find a predominance of that. There were pockets of people that viewed, no matter what was going on in the school or what the test scores were in that particular school, that it just wasn't up to par as far as other schools. But the data that we have thus far, that is not a general across-the-board sentiment in our community.

Ms. Cooper. Thank you.

Mr. Edwards. Mr. Boyd?

Mr. Boyd. No questions, Mr. Chairman.

Mr. Edwards. Mr. Lungren?

Mr. Lungren. I just have more of a comment than anything else, Mr. Chairman. You suggested that in California we did have those problems. I would suggest that wasn't true throughout California. There are some areas that did not have that history.

The other thing was that a statement was made to the effect that, in each and every case, we've heard evidence that every school district which went through a busing program had an increase in student test scores. I think Charlotte Mecklenberg indicate it was 7 or 10 years before they achieved that result. I know that's not true in the case of Los Angeles or Pasadena, both of which have had successive years of negative results, and also we've had a terrible problem in both Los Angeles and Pasadena with white flight.

I guess, lastly, I'd say that I appreciate the chairman saying that he wishes that we could do what I thought somehow voluntary efforts in magnet schools were doing, but evidently we've just seen articulated here the "root canal" theory of education, that we can't solve the problem unless we really make it hurt, and I'm not sure that that's necessarily true.

I hope that we all realize that we all want to achieve the same thing. Some of us have some differences of opinion about the route by which we should attempt to achieve that end and some of us have some very fundamental questions about it. But I appreciate your testimony here. You've certainly given us some thoughts and some experiences that I think will help.

Mr. **Edwards**. I thank the gentleman for his observations and agree with him that everybody on this committee and, indeed, all of the witnesses we've had would agree that we would like to resolve this problem that we have in the country. We all recognize that we have had segregated schools in all parts of the country to one extent or another and that the general health of our country will be a lot better when we can resolve it. The methods are disruptive and we have problems with some of them. So we have no basic disagreement and perhaps I should have said in my remarks, because this is generally the testimony we have had, that school districts have shaped up when they come under a court order and innovative programs, such as magnet schools, have been introduced. They probably wouldn't have appeared before.

Mr. Boyd?

Mr. **Boyd**. Thank you, Mr. Chairman. No questions.

Mr. **Edwards**. Well, we thank you very much and appreciate the very helpful testimony.

Dr. **Wentz**. Thank you. We appreciate the opportunity.

Mrs. **Weir**. Thank you.

Mr. **Edwards**. The hearing is adjourned.

[Whereupon, at 3:20 p.m., November 4, 1981, the hearing was adjourned, subject to the call of the Chair.]

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SCHOOL DESEGREGATION

THURSDAY, NOVEMBER 19, 1981

House of Representatives,
Subcommittee on Civil and Constitutional Rights,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met at 9:40 a.m. in room 2237 of the Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Washington, Hyde, and Sensenbrenner.

Staff present: Janice Cooper and Thomas Boyd.

Mr. Edwards. The subcommittee will come to order.

I recognize the gentleman from Illinois, Mr. Washington.

Mr. Washington. Thank you, Mr. Chairman.

I ask unanimous consent that the committee permit the meeting this morning to be covered in full or in part by television broadcast, radio broadcast, and/or still photography, pursuant to rule V of the committee rules.

Mr. Edwards. Without objection, it is so ordered.

I know that for this important hearing the members will come in and out, as they all want to do. Unfortunately, they all have other responsibilities, too.

Today is the 10th hearing this subcommittee has held this year on the subject of school desegregation. The process has been illuminating and, in many respects, heartening, insofar as school desegregation in some parts of the country has progressed well. These hearings are the first really indepth study that has been made of school desegregation in more than 10 years.

I think that then-Senator Mondale's committee in the Senate and the House Committee on the Judiciary did indepth studies about a decade ago, and we are bringing that up to date. When we have the pleasure later this morning of hearing the Assistant Attorney General in charge of civil rights testify, we are going to be well prepared to evaluate this administration's policy on this vital issue.

First, however, we are very pleased to welcome our friend and colleague, Congresswoman Mary Rose Oakar. Ms. Oakar's district, Cleveland, Ohio, is a city plagued by the problems faced by many large urban areas—low financial resources, declining population, labor difficulties in the schools, and so forth. These factors have made public education and the effort to desegregate that education immensely difficult.

In addition, the high concentration of minority students makes meaningful desegregation within the city nearly impossible, but hopefully, we are going to learn from the hard cases, as well as the easy ones.

Ms. Oakar, welcome. We are delighted to have you here. You may proceed.

TESTIMONY OF HON. MARY ROSE OAKAR, REPRESENTATIVE IN CONGRESS OF THE UNITED STATES FROM THE 20TH DISTRICT OF THE STATE OF OHIO

Ms. **Oakar**. Thank you, Mr. Chairman and members of the committee.

I will, if the chairman permits, go through most of my testimony as it is written, and I will be delighted to answer any questions.

Mr. **Edwards**. Without objection, all of it will be made part of the record.

Ms. **Oakar**. Thank you, Mr. Chairman.

First of all, I want to take a moment to express my gratitude, not only for the opportunity to appear before you today, Mr. Chairman, and present my views on desegregation of our public schools, but also to commend you and the members of the committee for having the courage to hold hearings on what is perhaps one of the most sensitive and critical issues of our modern times.

Let me also say parenthetically that I was a teacher before becoming involved in the realm of politics. I taught in public schools in the city of Cleveland and at a community college. I had the marvelous opportunity to teach young people of every background and every race, and adults also, I might add.

Unquestionably, the violation of a human being's civil rights because of race, color, national origin, sex, or age is inhuman and, in my judgment, immoral. I would hope that we all agree on this point. In addition, I believe that equal access and quality learning for all children should be a fundamental goal of this Nation.

On that note, of course, I am always very disarmed and very saddened by the fact that we see less funds for education, not more funds for education.

I believe the chairman, who has done such wonderful things in the areas of fair housing and the extension of the Voting Rights Act, the Equal Rights Amendment—and, I might add, other civil rights issues, like the Legal Services Corporation, et cetera—which were reported out of this fine committee, knows my voting record and knows where I stand on those important civil rights issues.

I do not believe, however, that busing of schoolchildren from one neighborhood to another does, in fact, guarantee the civil rights of our people. In addition, I do not believe that busing in any way has achieved desegregation. Certainly this is not the case in my city of Cleveland.

Busing has been paraded at times as a panacea which promised higher academic performance levels, widened future employment opportunities, and dramatically improved race relations. If any or all of the former were, in fact, the direct result of busing, there is no question that I would strongly advocate busing as the remedy to achieve desegregation. This, however, is not the reality, particularly in my city of Cleveland.

Mr. Chairman, although court-ordered busing has only been in effect in the city of Cleveland for slightly over 2 years—beginning

August 1979—community objection from all segments of the community has swelled and tensions have sweltered. A failing remedy, busing, must be replaced with more viable, sensible solutions.

A primary goal of desegregation—is to achieve the improvement of academic performance of minority students. Clearly this is a laudable objective. Yet in Cleveland, after 2 years of busing, more than 10,000 pupils or about 13 percent of the enrollment, did not learn enough to be matriculated. The failure rate was highest in the 10th grade, where 41 percent of the 7,500 students were not promoted. The figures demonstrate that about twice as many black students as white students did not move on to the next grade.

Since court-ordered busing began, the enrollment of the Cleveland public school system has dropped by almost 25,000 students. While I understand our city has suffered a population loss, the reduction of our student rolls far outnumbers the actual decrease in population. The truancy rate alone has risen to 16,605 or 21 percent of the students who are enrolled. Approximately 17,000, mostly young black children, do not attend any school; and there are 700 children attending two nonchartered schools in our city.

In 1970–71, 58 percent of the system's enrollment was black, 40 percent was white, and the rest were other minorities, such as Hispanics. Today, 67.4 percent happen to be black and 27.9 percent are white. I will attach those figures for the record, Mr. Chairman, if you would like, with a breakdown of grades, et cetera.

Mr. **Edwards**. It will be made part of the record.

Ms. **Oakar**. Thank you.

What is now happening in many instances is that black students are being bused to attend almost all-black schools. Is this desegregation?

In another area, enrollment for kindergarten dropped from 10,000 to 6,300 in 1980, and for 1981–82, from 6,300 to 5,000 students. Our system cannot afford any more losses in enrollment. Commonsense declares that improved academic performance can never be achieved if students are absent from the classroom.

Instead of busing providing quality access to educational opportunities in my city, its only accomplishment has been the gradual dissolution of the entire school system. And believe me, it's not easy for me to make that kind of a statement. I don't make it lightly because I have great concern for the education of our children and for the concerns of equal access and equal opportunity, not only in the field of education but in employment, et cetera.

Two years of busing in Cleveland has cost $23 million. Yet, for the last 4 years, our school system did not have the resources to meet State minimum educational standards. At the end of June 1981, it was reported by Roger J. Lulow, the assistant State superintendent of public instruction, that the system did not meet State standards in 113 educational areas, such as the age of textbooks, and 210 areas dealing with uncleanliness, leaking roofs, or lack of running water.

Of that $23 million, the lawyer for the desegregation administrator has been paid $117,000 for the last 8 months—not the fees of his associates, but his fees. The desegregation administrator himself is salaried at $50,000 per year. Yet there are 1,100 children ages 11 to 13 years old who must use public transportation because desegregation officials say they lack the $1.4 million necessary to provide Cleveland schoolbuses for all 3,500 elementary and junior high pupils using public transportation. Many of our younger students using public transportation are riding alone in high-crime areas, at early hours in the morning, when it is dark outside, much to the dismay of parents, both black and white.

I might add that they have picketed the school board, et cetera, relative to this situation, as part of a coalition.

Mr. Chairman, one must ask: Who is really benefiting from the desegregation proposal in the city of Cleveland?

Mr. Chairman, in addition, as of this time last year, it was brought to my attention that the special master for desegregation in Cleveland, Ohio, asked Cleveland and Ohio State school board officials for nearly a half million dollars in fees, based on a rate of $150 an hour for himself, and a similarly high rate for his associates. In my judgment, this is an excessive fee and a very questionable expenditure of the taxpayers' money.

This situation transcends the issues of desegregation and busing, and calls into question the propriety of the payment of such an enormous fee, in light of the serious financial difficulties that the Cleveland public schools have been facing. And I might add, parenthetically, they have had to lay off numerous teachers who, in my judgment are the most vital part of the institution.

The school board members budgeted $1.5 million in legal fees that year alone. For example, one attorney purportedly billed the system for $164 per hour. Furthermore, attorneys representing the State have also billed the system for amounts that appear to be excessive. This situation, in my judgment, irrespective of whom the attorneys represent is reprehensible. The fact that the public trust of tax dollars is being violated. As a matter of fact, since 1976, $2.3 million has been spent in legal fees related to desegregation.

For some lawyers, busing has become an attorney's dream. And let me submit for the record the fees involved.

With respect to the case in Cleveland—and again, I want to emphasize that it's not just those that represent defendants in this area, but those who also represent the board—I would rather have seen that money used in private tutoring or smaller classrooms for remedial students who cannot read or write.

When I taught in a junior college, I was appalled to see how many students were coming through the ranks of our public schools since the war—adults, young adults—who could not read or write. These were students of all backgrounds. I was asked to develop a remedial course, and I often felt that maybe what I should have done is teach the first grade so that those kids could have the kinds of opportunities which I think really pave the way for a bright future, if you have the educational tools by which to function as a human being. I did, however, develop some remedial program on that level.

If you will recall, in August 1979, the U.S. Sixth District Court of Appeals ruled that the special master's hourly rate of $110 was excessive, and reduced the rate to $65 per hour. That standard ought to hold true for all attorneys involved.

The reason I bring up attorneys' fees on both sides of the issue is that it is very demoralizing for people who work in the system.

Career employees in particular, who are being laid off after working for a system for 10 and 20 years of their lives and in contrast see their $17,000 or $20,000 job going down the drain, and see millions of dollars being paid for attorneys' fees.

It's equally demoralizing when special programs, such as private tutoring and remedial programs that are created to really assist students, are no longer in operation because there is no money to be had for those kinds of special services.

The community, perceiving these kinds of figures, get outraged. It's not just one segment of the community that's appalled by these kinds of fees. I think that ought to be brought to the attention of this committee.

Particularly in my own city of Cleveland, because of lack of adequate finances, many public schools have been forced to close their doors, including several in my own congressional district which had been successfully, naturally integrated because of the heterogeneous nature of the neighborhood.

I could just give one quick example in my neighborhood. I am a product of the inner city. I still reside in the inner city of Cleveland. It's a wonderfully heterogeneous area, with Hispanics, Native Americans, blacks, central Europeans, Middle Eastern individuals, Appalachians, et cetera, all in the same community. Historically it has been that way, and people of every economic group also reside in the neighborhood.

Well, two of their schools—the junior high that was naturally integrated and one of the elementary schools—were closed. For the life of us, we can't understand why it makes sense to bus these kids into another community when they were naturally integrated by walking to school.

It seems that we are sometimes penny wise and pound foolish in areas. This has happened in other communities in the city of Cleveland also. Integration that was natural is now being disintegrated and, for the most part, in many cases these students are no longer attending school because they are truant.

Basic school programs, as I mentioned, have been curtailed. How can we therefore expect the citizens of local communities to support their local public school system and approve operating levies when they see the bulk of their tax dollars going to pay the extravagant fees involved?

Mr. Chairman, as you may be aware, in the Cleveland school desegregation case, the first plaintiff was a Robert Anthony Reed III. Mr. Reed, now 22, lives and works in Cleveland. Last September, Robert Reed contacted the Cleveland "Plain Dealer," our largest Ohio newspaper, to express his opinion on the changes, namely busing, that the law suit has affected. Mr. Reed said:

> I've watched the busing going on and I don't think it's the right answer. I don't think it's good for kids of any color to leave their neighborhoods and go to strange schools. It's tough enough being a kid without that kind of pressure. I think there's a better way to right past wrongs besides busing.

Mr. Chairman, I share Mr. Reed's observations and his sentiments. I think there's a better way to right past wrongs besides busing.

The real issue, Mr. Chairman, is desegregation—not busing. This objective cannot be lost in the grandstanding that has become all too common an occurrence on emotional issues of social concern. As decisionmakers and elected officials, we have a sworn duty to design public policy that is equitable and workable.

Isn't it time we admit that the means of busing children to schools is a mistake and does not insure justice or quality education?

Mr. Chairman, with all the wonderful resources we have at our disposal, I am confident that in our collective wisdom we can develop viable and equitable remedies to truly achieve justice.

For example, I am certain you are aware of the St. Louis proposition, which would provide free college education to elementary and high school students who participate in voluntary desegregation.

The continuance and improvement of "magnet schools" have served in many instances as model successes. This sort of solution should be openly explored and comprehensively studied.

Additional tax credits should be offered to individuals who voluntarily integrate schools.

The Federal Government could target section 8 construction to further fair housing plans.

The Federal Government could legislate guarantees to ensure fair market values of homes.

We ought to enforce the law with respect to equal access to employment.

Mr. Chairman, particularly as a former educator of students of every race, color, and creed, I am firmly committed to quality education and policies that insure equal opportunity and access to the halls of learning.

I feel that my first-hand experiences, as an educator, give me a certain degree of expertise in the area, and I really do not believe that busing accomplished equal justice and equal access to quality education.

This completes my testimony, Mr. Chairman, and I submit the rest for the record.

I would be happy to answer any questions, if you have the time.

But again, thank you very much for having these hearings, and I look forward to reading all of the success and nonsuccess stories, as the case might be, across the country.

Mr. **Edwards**. Thank you very much for very helpful testimony, Ms. Oakar.

I recognize the gentleman from Illionis, Mr. Washington.

Mr. **Washington**. Ms. Oakar, I would hope the successes would abound. You have just described what might be called the breakdown of the school system; you talk about lack of textbooks, not enough maintenance of the properties, and evidently a woeful lack of truant officers. I assumed that you were going to conclude by asking for restoration of title I funds, because you needed money.

Ms. **Oakar**. We do.

Mr. **Washington**. You attribute all those problems to busing. Do you really think busing is the reason why your schools are in shambles, or is there some other reason?

Ms. **Oakar**. I think there are other reasons, but I do think that it is a factor because of the expense involved, and that becomes the priority, Congressman, is not the education of our children. The priority is how do we transport, where do we get the buses, how do we pay for the attorney fees. Yes, I do think that busing is one of the big factors. However, I also believe we could have done a better job in electing school board members. We have an elected school board situation. The problem with that is that nobody has wanted to run for the school board in the city. It wasn't the kind of position anybody wanted. No. 1, they do not get paid. Beyond that, the judge imposes his will, and several times has stripped them of all their authority, only to have that appealed, and then the appellate court overruled our local Federal judge. I think electing good, solid school board members who have a rein in overseeing the system is a factor involved.

I don't want to give only a negative impression. We do have a number of new school facilities, some of which I think are somewhat luxurious. I never attended schools that were particularly new—but we do have a number of new school facilities over the years that are quite lovely and quite conducive to learning.

The second thing is we can't get a levy passed in our city to assist the school, and we have tried three or four times over the last few years. We need a levy. It would be interesting for this committee to hold hearings on the levies since busing. Before the case was brought forward about 5 years ago, the people of the city of Cleveland always voted for school levies. It was a source of pride to be supportive of social service kinds of programs, as well as educational programs.

Now, no matter what side of town you're talking about, what segment of the community you're talking about, we cannot get people to pass a school levy. In my judgment, it's a direct result of the incongruity of the situation and the great displeasure of the people of the city of Cleveland with respect to the situation. The result is a lack of resources.

Mr. **Washington**. As a matter of fact, the court found segregation in the Cleveland public school system, and therefore ordered busing; isn't that a fact?

Ms. **Oakar**. They did, yes.

But I think if you check our case compared to other cities you will find it was the most massive decision in terms of mandating what we call cross town busing in the country. I personally believe that in several areas of the community there could have been reason to find the board of education guilty. There were isolated instances. There were two I can think of in communities where they should have merged neighborhoods—but certainly not in all.

Yet instead of correcting those situations, all of the children were ordered to be bused. I think it still stands as the most massive order in the history of busing—and without any community involvement. Parents, irrespective of what their backgrounds are, really care about their children and they ought to be involved in the process. There was no real outreach to seek them out and to let the parents have any kind of a say-so in determining what the best kinds of solutions in cases might be.

It's no wonder people are just so hostile toward some members of the court. While I realize and really believe in the separation of powers, in our instance, it was really something else.

Mr. **Washington**. But part of the stubbornness was of the school board; there was a finding that there was a pattern of segregation mainly instituted by the board; is that correct? But the thing that disturbs me about your statement is that you focus on busing when all these other social problems are there.

For example, your taxpayers voted in the past for additional funds for the school system. It seems to me that most of the things you delineate in your statement deal with money rather than busing.

Ms. **Oakar**. Let's get practical and honest about it, Congressman. People will not support a levy in our city because they do not believe in busing, I've checked the precincts, and it's not just in the white communities where they are not happy.

Mr. **Washington**. All right. The people in your city evidently were predominantly supportive of the pattern of segregation. When that was broken down, they resisted busing. What do you propose as a solution?

Ms. **Oakar**. I have offered some solutions in my paper.

Mr. **Washington**. Magnet schools? How many magnet schools do you envision?

Ms. **Oakar**. Let me tell you what I would do. I would have a remedial magnet school for the young people who could not read and write. Students would not be automatically passed or failed as sometimes is the case. I would give the teachers an opportunity to educate these young people so they have opportunities when they grow up. But now when you have a large classroom, and when your priorities are not focused on educational opportunities but on the transporting of students and where are you going to buy all the buses, it's bizarre. I say this being a civil rights activist—and my voting record will show that down the line.

I would teach students how to read and write, et cetera. You cannot do this unless you give them the opportunity to have private tutoring. We need to focus on their needs as young people, so that they can achieve and have opportunities for employment, et cetera.

Mr. **Washington**. All right. I commend you on your excellent civil rights record.

Ms. **Oakar**. Thank you. Perhaps not on busing, if that's a civil rights issue. I believe in healthy disagreement, not for the exploitation of the issue—I would never exploit the issue in my district. and believe me, it's fashionable to do that sometimes by politicians. But I have not done so. I just believe very strongly that we ought to admit, if busing is not working, we ought to use our resources to correct the problem, and maybe find other remedies.

Mr. **Washington**. Thank you. My time has expired.

Mr. **Edwards**. The gentleman from Illinois, Mr. Hyde.

Mr. **Hyde**. Thank you, Mr. Chairman. And I thank Congresswoman Oakar for her very fine testimony. I regret I didn't hear all of it, but I have read her statement, and it's interesting that some things are great in theory, but when you try to work them out in the very real world they oftentimes don't work the way people would like them.

Now, I'm most interested to see that $23 million in the last 2 years of busing in Cleveland has been expended, and yet over the last 4 years the school system hasn't met State minimum education standards.

Now, if that $23 million had been spent on modernizing the textbooks, cleaning up the place, fixing leaking roofs and other things, the educational level of the children might—just might have been improved somewhat. Is that your view?

Ms. **Oakar**. Well, I believe that and also better management. I think that money certainly could have been used in more beneficial ways for the students themselves.

Mr. **Hyde**. Are the schools in the white communities better than the schools in the black communities in terms of, let's say, teacher qualification?

Ms. **Oakar**. I taught in both.

Mr. **Hyde**. You taught in the inner city in Cleveland?

Ms. **Oakar**. Yes. I taught in East High School, which was in the black community.

Mr. **Hyde**. Was your faculty in the black community comparable to those in the white communities?

Ms. **Oakar**. Absolutely. I think that both black and white teachers, as a matter of fact, when they're told that they're not doing a good job—it's very demoralizing for teachers. I thought among the best teachers were the teachers with whom I related when I taught in the black community. There were equally as dedicated teachers in the white communities, and integrated schools. I had an opportunity to teach in integrated situations, also—naturally integrated situations. I don't think the problem is the quality of the teachers.

I think the problem is that sometimes they get some young people who really have special needs; 28 to 50 kids in a classroom with 5 who really can't understand the material unless you give them private training, is typical.

Mr. **Hyde**. Some tutoring of some sort?

Ms. **Oakar**. Right. Those kinds of so-called luxuries are no longer taking place. That's what I think is reprehensible.

Mr. **Hyde**. What do you think about the $23 million that was spent on juggling children from one community to another, all to fulfill the notion that to get a good, adequate, quality education, children must be homogenized racially? If that money had been spent focusing in on the problem kids wherever they are located, and giving them whatever extra remedial attention and special attention, the other kids in the classroom would not have been distracted, I would suggest, by the four or five that couldn't hack it, and everybody would have benefited.

Now, would that be your view?

Ms. **Oakar**. Yes, it would. But I would say that what we would have to do is mandate de facto that that school board would have to use that money for those purposes. That's the problem. I think that may be what Mr. Washington was suggesting.

Mr. **Hyde**. Do you think it might be used for extra reading days?

Ms. **Oakar**. That's right. We have to make sure this is mandated, to be used to really teach these kids how to read, write, and subtract, et cetera, and give them creative opportunities for learning.

Mr. **Hyde**. Mary Rose, how long did you teach?

Ms. **Oakar**. 10 years.

Mr. **Hyde**. I was vice chairman of the education committee in the Illinois General Assembly for a period. That experience was really my first encounter with the educational establishment and laws relating thereto, and it was my conclusion after finishing my term there that most of the laws were designed to help the teachers and give them extra advantages. That's a great idea if it ever filtered down to the kids. Now, I am perhaps talking about hearsay to you as a teacher, but you are right. The money that will be saved from transportation to achieve racial integration could be mandated to go to the special needs of the kids. I don't know how we do that, but it would be worthwhile.

Ms. **Oakar**. Let me just offer one point. I saw a wonderful program that disintegrated when I was running for city council. I am a former city councilwoman. I was trying to think of creative ways to meet the people, to campaign, because I didn't have a lot of money to win the election. I would go early in the morning in my neighborhood, which I explained earlier was a very integrated community that I was born and raised in, and I would meet the mothers walking their little kids to school. I'd introduce myself, and so on.

Many of these mothers later became aids in education and some of the mothers did not know how to read very well and did not have educational skills. Later there was a program in Cleveland—that we have since terminated—that allowed these mothers to become aids in our schools. It not only provided them with the educational opportunity of learning just through osmosis, but it also gave them the opportunity to better tutor their children when they got home and so on. That program has been negated because those mothers can't get to wherever they are supposed to be getting. The fact is that in Cleveland you are really harming the same economic group. I don't care what side of town you live on, nobody is particularly wealthy, you know. We have a few wealthy people who live in the city, but the fact is you're talking about going after the same economic class and really putting the whole burden on them. I think it's very problematic.

Mr. **Hyde**. Briefly, if you can, has busing worked to help upgrade the educational level of those sought to be helped by it?

Ms. **Oakar**. I don't think it has. I did cite statistics that I think relate to that, that I submitted for the record.

Mr. **Hyde**. Thank you.

Mr. **Edwards**. Mr. Sensenbrenner.

Mr. **Sensenbrenner**. I have just one very brief question. There are some who might imply the voters of Cleveland are somewhat bigoted because they turned down the requested school levies. But I seem to that Cleveland was the first major city in the country to elect a black mayor, and that he retired from office voluntarily, not by request of the voters.

Ms. **Oakar**. That's true.

Mr. **Sensenbrenner**. Thank you.

Mr. **Edwards**. We appreciate your testimony very much. We have had testimony from all over the country, and part of the message is that there is a pattern in this country of abandonment of public education and lack of support that creeps in here and there. All of us here, I'm sure, share a certain feeling of dismay about this trend. Apparently it's very apparent in Cleveland; otherwise, they would provide adequate facilities and resources. And I know your testimony is not to the effect that Cleveland would have a first class, A-1 public education system after busing. That has not been your testimony. You have been much more realistic than that.

We have also had testimony over the past months to the effect that public support—for school desegregation—from school boards, local politicians and newspapers, mayors, and other people who tried to support the law and make it work—makes a big difference as to whether desegregation does work. The evidence indicates in those circumstances, students do better, and both the children and the parents get along very well.

It hasn't worked in Cleveland, I understand that. I understand the judge did order some of the remedial things that you so ably recommended. But the school board neither had the money nor the inclination to put them in effect in Cleveland, and that was a shame, too.

But it's been excellent testimony, and we appreciate it very much. Thank you.

Ms. OAKAR. Mr. Chairman, may I just comment on your last point very briefly. The desegregation officer who was just appointed last year came up with a plan, and for those kinds of programs that you just suggested. He was overruled by the judge. When they did come forward with remedial kinds of opportunities and some of which were magnet schools, et cetera, the judge scrapped this plan.

There is one thing I will say on behalf of my city. Unlike some of the other cities, we have had no violence in any way, shape, or form when busing began in Cleveland. I think all of us attempted to really put aside our personal feelings on the issues to hopefully contribute to a positive atmosphere.

Mr. EDWARDS. Mr. Washington?

Mr. WASHINGTON. Yes. I was not suggesting, to reply to your colloquy with Congressman Hyde, that the $23 million should be used on desegregation. I was suggesting to you that in Cleveland you have fallen into the same pattern that has gone on throughout this country: Parents with children in the public school systems, who, for a lot of reasons, don't want to pay the freight, move out, and it falls on those who stay to fund the system. There's a pattern, and I detect a correlation between the growth of that pattern and the growth of the black and Hispanic population in these major cities. The correlation is almost one-to-one.

I don't think there is any connection between the breakdown of the public school system in Cleveland and anywhere else and the pullback of moneys. They are separate entirely. That's a pattern I thought you were going to address, and I was thinking that we might zero in on the culprit.

For example, the 25-percent cut in title I funding to various cities is criminal at a time like this, and that's also a part of the pattern. So to me, the parts of your testimony pertaining to busing, although interesting as incidents, I don't think can be tied to the collapse of the system.

Ms. OAKAR. I really have to respectfully disagree. I agree with you about the title I funding. I don't support cuts for educational programs in any way. I'd like to see them increase. I am for the Department of Education. A lot of people aren't, but I really feel we ought to focus in on the education needs of our people in this country. I believe that's a sign of civilization.

But honestly, Congressman, I'm telling you as sure as I'm sitting here that the reason our people reject those levies on all sides of town is because they're so dissatisfied. You know where the biggest waiting list in our city is, to get into private Catholic schools? It is not in the white communities; it's in the black communities.

Mr. **WASHINGTON**. Irrespective of that, I think it's just a reflection on the school.

Ms. **OAKAR**. It might be true in your area.

Mr. **WASHINGTON**. It's true in my area, and it's true in yours.

Ms. **OAKAR**. I don't think so, but I share your concerns. It's a hard job to provide for the educational needs of our people. It's not an easy profession whether you're the administrator, the teacher, the desegregation officer, whoever you are. It's a very difficult job. I just think some judges want to be the superintendent, they want to be the teacher, and yet they don't go out to the field. They don't go to visit the schools and see and meet with the parents. You know, when you make a sweeping decision that affects the lives of children, it seems to me some outreach work is involved.

Maybe the court is above all that. I don't think they should be and I don't think it's asking too much on the part of parents to be concerned. Parents are just doing what is their responsibility. They don't want to see their kids transported on private transportation at 7 in the morning or when it's still dark outside. The kids are 11 years old, in a high crime area. And I'm not just talking about the white children being bused into the black community. I'm talking about black children being bused into the white community, too. They're outraged at that, and then you expect them to support a school levy? They're frustrated because our people in Cleveland—I don't care what part of town they live in—cannot afford to move. We did not experience the white flight that I think some areas experienced. They can't afford nor do they want to move.

But very often their concerns are for their children and we ought to do more for them. I would like to see this committee hear from parents on the issue, irrespective of their backgrounds. I think that would be very interesting.

Mr. **EDWARDS**. Further questions?

Mr. **HYDE**. Well, let me just say this: I am a little bit dismayed that the judge isn't running the whole school system properly or adequately.

Ms. **OAKAR**. I think he's running too much of it.

Mr. **HYDE**. He's trained and educated to run a school system, and he can devote all his time to it, can he not, in contrast to an elected school board?

Ms. **OAKAR**. I think it would be wrong for me to personally attack the court.

Mr. **HYDE**. But what about the idea of Federal judges running school systems and overruling plans?

Ms. **OAKAR**. That's why I'm dismayed. The desegregation officer offered a plan of special kinds of programs that related to remedial students, which happen to be magnet schools. It is a very practical and natural way to pull in young people from all over the city. It was rejected. Most people are wondering what his function is.

Mr. **Hyde**. What do you do when he rejects it? Do you appeal?

Ms. **Oakar**. I think it's hard for them to appeal. He's there because the court desired to have a desegregation officer. Our particular judge is taking his public licks in the media. It's probably a very thankless position to say the least, so I don't want to just castigate the judge. But I'm talking about the sensitivity involved when you affect the lives of young people and the insensitivity that parents are not going to wonder what's going on.

Mr. **Hyde**. How does it square with the democratic theory of participation in these things, elections and the like, to have one unelected person make decisions that impacts on parents, teachers, and kids all over the community?

Ms. **Oakar**. As you know, there are more and more articles about the courts. People are concerned. On the other hand, while I do believe very strongly in separation of powers, I'm not so sure I think people ought to have lifetime appointments—I do think it is certainly necessary to have a court that makes judgments on various issues.

Mr. **Hyde**. We have legislation, we have had adjudication, and we have administration, and we have one nonelected person legislating, adjudicating and administering. Maybe we ought to think about it a little bit.

Ms. **Oakar**. I think that's the problem. I honestly think that the right to educate rests with the parents. They extend their right to the schools and the State. But they ought to have as much say as somebody who is a career employee. We have had so many wonderful career employees—black and white—leave the system. As a matter of fact, we pride ourselves in Cleveland on the fact that our teachers had the best upward mobility program. Dr. Briggs, who was our former superintendent and the author of the school lunch program, came to testify many, many times in Congress because of his concern for the nutritional needs of young people. He left town a broken man because of the castigation on his character.

Mr. **Edwards**. Thank you very much.

We now will turn our attention to the Assistant Attorney General for the Civil Rights Division, Mr. William Bradford Reynolds, who will enlighten us with respect to the administration's intentions in the area of school desegregation. It's a pleasure to have you here before this subcommittee, Mr. Reynolds. This subcommittee, in the last few decades, has been responsible for initiating almost every civil rights bill that's come along the pike, and we are very proud of that record. We are pleased that for many, many years we have enjoyed a very close relationship with the various assistant attorneys general in charge of civil rights, both Republican and Democratic administrations, and we look forward to working very closely with you, too,

Without objection, your prepared statement will be made a part of the record.

TESTIMONY OF WILLIAM BRADFORD REYNOLDS, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, U.S. DEPARTMENT OF JUSTICE

Mr. **Edwards**. Mr. Hyde, you can lead.

Mr. HYDE. Thank you, Mr. Chairman. I am pleased, as I know you are, to have the Assistant Attorney General for the Civil Rights Division, Mr. W. Bradford Reynolds, before us this morning. I have had the opportunity to meet and talk with him on other occasions and have always found him to be an astute, lawyerly advocate for the Justice Department's point of view. I think these hearings have been very useful in focusing attention on issues which, of course, are not easy to resolve. None of us wants to deprive any youngster of the right to the kind of education which will satisfactorily prepare him or her for a productive adulthood. Separate is not equal, if that separatism is caused by a desire to segregate people on the basis of race, color, religion, national origin, or for any other reason.

As Speaker O'Neill can attest, Irish Catholics in Boston were systematically removed from the public school system prior to their graduation so that they would be available to fill the unskilled labor pool in that city. Similarly, blacks were systematically segregated in the public schools of the South as recently as 25 years ago.

I share the concern of many Members of Congress and a large segment of the public where transportation for the purpose of achieving some statistical ratio is involved. I have not yet been convinced that busing for the sake of racial balance alone necessarily produces a better school system for anyone. I am convinced that busing to achieve racial integration is a form of conscription.

To be sure, busing is an important means of providing transportation for all children who wish to attend public schools, but shouldn't be used to simply satisfy an arbitrary and numerical balance which may or may not have anything whatsoever to do with academic achievement. Witnesses before this subcommittee have suggested voluntary programs which encourage students to desegregate are more effective in the long term in achieving peaceful and effective desegregation. Programs such as magnet schools, academically oriented curriculum, faculty transfer incentives, among others, may well go further toward achieving a better education for all than merely busing for racial purposes alone.

All of us in public office are keenly aware of the problem public education is beginning to face both in the form of reduced funding and reduced parent participation. Parents want their children to receive an adequate education. They don't want their children to be part of a social experiment at the risk of losing the opportunity for a quality education and a better life as an adult. Given the opportunity, I believe parents of all races would rather have their child exposed to greater long-time socioeconomic opportunities through education than to the disruptive effects of busing for the sake of statistical ratios.

I look forward to hearing your testimony, Mr. Reynolds, and I thank the chairman for his indulgence.

Mr. EDWARDS. Thank you.

Mr. Washington?

Mr. WASHINGTON. I also look forward to hearing your testimony, Mr. Reynolds.

I had occasion to hear it a couple of times and asked a couple of questions. I must confess, I was extremely shocked when they ruled from the umbrella of protection apparently of the action. I had a good deal of discussion with many people in the business world since that took place, and they are every bit as shocked as I was. Also, *Brown* v. *Maryland*, for many years, has never been adequately enforced and there have been attempts to enforce it, but there has been a lot of resistance to it, also.

For example, this morning, you see a good example of an attempt to cover up all the ills of society, cover up the responsibilities of citizens who do not seem to want to pay to maintain institutions when other people seem to be taking their place at the bottom and going up. It also disturbs me that we didn't have before our committee at the time we were dealing with the extremely important issue, that is, the extension of the Voting Rights Act, we had no one here from your office to state an opinion of that office, or at least upon the problems we were facing, in order to resolve it.

I read your statement. I'll say it's shocking and shattering. I'm looking forward to you going through with it. Perhaps I have missed something in it that might give me a little optimism, but I must confess to you it's extremely disturbing for the Attorney General in charge of civil rights to state the only concern in the future would be the narrow area of de jure segregation supported by States. So I look forward to your testimony.

I hope perhaps we can translate through our questions the urgency which confronts this country, primarily as far as whether or not you really mean what you seem to say in this statement. No. 2, are you reflecting the opinions of your boss, the Attorney General; and even more so, are you reflecting the opinion of the President of the United States. We would assume—he said he would swear to defend the constitutional laws of the country as interpreted by the courts and as enforced by the courts, or attempted to be enforced by the courts over the last 30 years. So I wait with baited breath.

Mr. **Edwards**. You may proceed.

Mr. **Reynolds**. Thank you, Mr. Chairman, and members of the subcommittee.

I want to thank you for inviting me to testify today on the greatly important subject of school desegregation.

As you know, I testified last month before a Senate subcommittee looking at this same question. I believe that all of us involved in the development of policy in this area and in enforcement will benefit from the thorough study now underway in the House and Senate.

Few contemporary domestic issues command as much public attention as the question of how this administration and Congress plan to respond to the problem of unconstitutional racial segregation of our public schools. Virtually everyone, I believe, agrees with the ultimate objective—that is, complete eradication of State-imposed racial segregation. Moreover, we all probably can agree that the achievement of this objective is central to the constitutional promise of equal protection of the laws.

In recent years, however, we have witnessed growing disenchantment by many with some of the remedies used to accomplish the constitutional imperative of eliminating racial discrimination in public schools. The testimony presented to this subcommittee and two Senate subcommittees underscores an increased public awareness of the need to develop enlightened and forward-looking school desegregation remedies.

I know that this committee has before it several bills and proposed constitutional amendments dealing with the subject of school desegregation. While these proposals differ in a number of respects—both in terms of the procedural approach suggested and in terms of the substantive relief contemplated—all sound the same theme: compulsory busing of students in order to achieve racial balance in the public schools is not an acceptable remedy.

As a matter of administration policy, this theme has been endorsed by the President, the Vice President, the Secretary of Education, the Attorney General, and me. The administration is thus clearly and unequivocally on record as opposing the use of mandatory transportation of students to achieve racial balance as an element of relief in future school desegregation cases. Stating our opposition to compelled busing, however, is but a starting point in developing just and sound policies to achieve the central aim of school desegregation—equal educational opportunity.

If mandatory busing is not an acceptable tool with which to combat unconstitutional racial segregation of our public schools, it is incumbent upon all branches of Government to develop reasonable and meaningful alternatives designed to remove remaining State-enforced racial barriers to open student enrollment and to insure equal educational opportunity for all, without regard to race, color, or ethnic origin.

It is in the area of developing just such meaningful alternative approaches to accomplish to the fullest extent practicable the desegregation of unconstitutionally segregrated public schools that we at the Department of Justice have been concentrating our attention in recent months. I am pleased to have this opportunity to share with you the thoughts and tentative conclusions resulting from our analysis to date.

Let me note at the outset that my remarks today are directed only to the policy considerations raised by the several bills currently before the Judiciary Committee. Other questions have been raised regarding the constitutionality of legislation that seeks to restrict the jurisdictional authority of Federal courts to order certain relief. Those complex constitutional issues are being carefully scrutinized by the Department of Justice. Because that review has not yet been completed, I will, for the present, place to one side all discussion relating to the constitutional implications of the bills before this subcommittee and the Subcommittee on Courts, Civil Liberties, and the Administration of Justice.

Rather, I will focus solely on the remedial considerations under development by this administration to vindicate the constitutional and statutory requirements of equal educational opportunity. I hope that this subcommittee will find the administration's analysis—and the policies borne of that analysis—useful in its deliberations in this area.

The Department's responsibility in the field of school desegregation derives, as you know, from titles IV, VI, and IX of the Civil Rights Acts of 1964, as well as the Equal Education Opportunity Act of 1974. It is important to emphasize that these statutes do not authorize the Department of Justice to formulate education policy.

Nor could they, for under our Federal system, primary responsibility for formulating and implementing education policies is constitutionally reserved to the States and their local school boards. In carrying out this reponsibility, however, the States cannot transgress constitutional bounds, and the Department's basic mission under these Federal statutes, a mission to which this administration is fully committed, is to enforce the constitutional right of all children in public schools to be provided equal educational opportunity, without regard to race, color, or ethnic origin.

In discussing with you the particulars of how we intend to enforce this constitutional right, it is important to frame the discussion in proper historical perspective. *Brown* v. *Board of Education* is, of course, the starting point. In *Brown,* the Supreme Court held that even though physical facilities and other tangible elements of the educational environment may be equal, State-imposed racial segregation of public school students deprives minority students of equal protection of the laws. Casting aside the shameful "separate-but-equal" doctrine established some 84 years earlier in *Plessy* v. *Ferguson,* the Court held that State-imposed racially separated educational facilities are inherently unequal.

One year after the initial decision in *Brown,* the Supreme Court, in *Brown II,* ordered that the Nation's dual school systems be dismantled "with all deliberate speed." The goal of a desegregation remedy, the Court declared, is the admission of students to public schools on a "racially nondiscriminatory basis."

During the period following *Brown II,* State and local officials engaged in widespread resistance to the Court's decision; thus, few jurisdictions made any real progress toward desegregation. In 1968, 13 years after *Brown II,* the Supreme Court's patience ran out. In *Green* v. *County School Board,* the Court was confronted with a "freedom-of-choice" plan that had the effect of preserving a dual system. In disapproving this plan, the Court made clear that a desegregation plan must be judged by its effectiveness in disestablishing State-imposed segregation. The same at 439. The burden on a school board that has operated a dual system, the Court explained, "is to come forward with a plan that promises realistically to work and promises realistically to work now."

In neither *Brown* or *Green,* however, did the Court assert that racial balance in the classroom is a constitutional requirement or an essential element of the relief necessary to redress State-enforced segregation in public schools. Rather, the Court held simply that the Constitution requires racially nondiscriminatory student assignments and eradication of the segregative effects of past intentional racial discrimination by school officials.

Because of the problems encountered by the lower courts in implementing the *Green* decision, the Supreme Court returned to the subject of a school board's remedial obligations 3 years later in *Swann* v. *Charlotte-Mecklenburg Board of Education.* Swann specifically rejected any "substantive constitutional right to a particular degree of racial balance" and reiterated that the basic remedial obligation of school boards is "to eliminate from the public schools all vestiges of State-imposed segregation."

For the first time, however, the Court authorized use of mandatory race-conscious student assigments to achieve this objective explaining that racially neutral measures, such as neighborhood zoning, may fail to counteract the continuing effects of past unconstitutional segregation. Moreover, in light of the prevalence of bus transportation in public school systems, the *Swann* Court upheld the use of mandatory bus transportation as a permissible tool of school desegregation.

Thus, in what has proved to be the last unanimous opinion by the high court in the school desegregation area, the first tentative step was taken down the remedial road of court-ordered, race-conscious pupil assignments and transportation. Since then, that road has been traversed more and more often by the yellow schoolbus.

What is interesting to note, however, is that the *Swann* Court spoke in measured terms, expressing reserved acceptance of busing as but one of a number of remedial devices available for use when, and these are the Supreme Court's words, it is "practicable," "reasonable," "feasible," "workable," and "realistic." The Court clearly did not contemplate indiscriminate use of busing without regard to other important and often conflicting, considerations. Indeed, the *Swann* Court, emphasizing the multiple public and private interests that should inform a desegregation decree, expressed disapproval of compulsory busing that risks the health of students or significantly impinges on the educational process, made clear that busing can be ordered only to eliminate the effects of State-imposed segregation and not to attain racial balance in the schools, and tacitly admonished courts to rely on experience in exercising their equitable remedial powers.

Today, a decade after *Swann*, there is ample reason to heed that admonition. Justice Oliver Wendell Holmes counseled wisely, in his book, "The Common Law," that "the life of the law has not been logic, it has been experience."

Unlike 1971, when no court had any empirical evidence on which to assess the advisability or effectiveness of mandatory busing, now we have 10 years of experience and the results of hundreds of busing decrees on which to draw in formulating current desegregation policies. It is against this backdrop that courts, legislators, and the public must—as *Swann* itself signaled—now reconsider the wisdom of mandatory busing as a remedy for de jure segregation.

Few issues have generated as much public anguish and resistance, and have deflected as much time and resources away from needed endeavors to enrich the educational environment of public schools, as court-ordered busing. The results of numerous studies aimed at determining the impact of busing on educational achievement are at best mixed. There has yet to be produced sufficient evidence showing that mandatory transportation of students has been adequately attentive to the seemingly forgotten other remedial objective of both *Brown* and *Swann;* namely, establishment of an educational environment that offers equal opportunity to every school child, irrespective of race, color, or ethnic origin. In his May address to the American Law Institute, Attorney General William French Smith accurately commented on the accumulated evidence in this area in the following terms:

> Some studies have found negative effects on achievement. Other studies indicate that busing does not have positive effects on achievement and that other considerations are more likely to produce significant positive influences.
>
> In addition, in many communities where courts have implemented busing plans resegregation has occurred. In some instances upwardly mobile whites and blacks have merely chosen to leave the urban environment. In other instances, a concern for the quality of the schools their children attend has caused parents to move beyond the reach of busing orders. Other parents have chosen to enroll their children in private schools that they consider better able to provide a quality education. The desertion of our cities' school system has sometimes eliminated any chance of achieving racial balance even if intracity busing were ordered.

These lessons of experience have not been lost on some judges, including members of the Supreme Court, where opinion in this area is now sharply divided. For example, Justice Lewis Powell recently remarked in dissent in the *Estes* case:

> This pursuit of racial balance at any cost * * * is without constitutional or social justification. Out of zeal to remedy one evil, courts may encourage or set the stage for other evils. By acting against one race schools, courts may produce one race systems.

The flight from urban public schools has contributed to the erosion of the tax base of a number of cities which, in turn, has a direct bearing on the growing inability of many school systems to provide a quality education to their students—whether black or white. Similarly, the loss of parental support and involvement—which often comes with the abandonment of a neighborhood school policy—has robbed many public school systems of a critical component of successful educational programs. There is, in addition, growing empirical evidence that educational achievement does not depend upon racial balance in public schools.

To be sure, some communities have accepted mandatory busing, thus avoiding some of its negative effects. However, calm acceptance of mandatory busing is too often not forthcoming; and, plainly, the stronger the parental and community resistance, the less effective a compulsory student transportation plan becomes.

One of the principal objections to busing is that courts—frequently relying on the advice of experts—have largely ignored the measured terms of the *Swann* decision and have employed busing indiscriminately, on the apparent assumption that the cure-all for past intentional segregative acts is to reconstitute all classrooms along strict racial percentages. Not even in a perfect educational world would one expect to find every schoolroom populated by precise racial percentages that mirror the general school-age population.

Mandatory busing has also been legitimately criticized on the grounds that it has been employed in some cases to alter racial imbalance that is in no way attributable to the intentionally segregative acts of State officials. In *Keyes* v. *Denver School District,* the Supreme Court held that a finding of State-imposed racial segregation in one portion of a school system creates a presumption that racial imbalance in other portions of the system is also the product of State action.

To avoid imposition of a systemwide desegregation plan, which often includes systemwide busing, a school board subject to the *Keyes* presumption must shoulder the difficult burden of proving that racial imbalance in schools elsewhere in the system is not attributable to school authorities. In cases in which there is no independent evidence that the racial imbalance in a challenged school can realistically be traced to the intentionally segregative acts of school officials, application of the *Keyes* presumption is unfair. Yet it has in the past been so used, resulting, in some instances, in imposition of systemwide transportation remedies encompassing not only de jure, or State-imposed, racial segregation, but de facto racial segregation as well.

Sobered by this experience, the administration has reexamined the remedies employed in school desegregation cases. Stated succinctly, we have concluded that involuntary busing has largely failed in two major respects: it has failed to elicit public support, and it has failed to advance the overriding goal of equal educational opportunity. Adherence to an experiment that has not withstood the test of experience obviously makes little sense.

Accordingly, the Department will henceforth, on a finding by a court of de jure racial segregation, seek a desegregation remedy that emphasizes the following three components, rather than court-ordered busing: (1) removal of all State-enforced racial barriers to open access to public schools; (2) assurance that all students—white, black, Hispanic, or of any other ethnic origin—are provided equal opportunities to obtain an education of comparable quality; and (3) eradication to the fullest extent practicable of the remaining vestiges of the prior dual systems.

To accomplish this three-part objective, we have developed, I think, a coherent, sound, and just litigation policy that will insure fair enforcement of the civil rights laws, eliminate the adverse results attending percentage busing, and make educational issues the foremost consideration.

As part of that litigation policy, the Department will thoroughly investigate the background of every racially indentifiable school in a district to determine whether the racial segregation is de jure or de facto. In deciding to initiate litigation, we will not rely on the *Keyes* presumption, but will define the violation precisely and seek to limit the remedy only to those schools in which racial imbalance is the product of intentionally segregative acts of State officials. And all aspects of practicability, such as disruption to the educational process, community acceptance, and student safety, will be weighed in designing a desegregation remedy.

In developing the specific remedial techniques to accomplish this three-part objective, we recognize that no single desegregation technique provides an answer. Nor does any particular combination of techniques offer the perfect remedial formula for all cases. But some desegregation approaches that seem to hold promise for success include: voluntary student transfer programs; magnet schools, enhanced curriculum requirements, faculty incentives; in-service training programs for teachers and administrators; school closings in systems with excess capacity and new construction in systems that are overcrowded; and modest adjustments to attendance zones. The overreaching principle guiding the selection of any or all of these remedial techniques—or indeed resorting to others that may be developed—is equal educational opportunity.

Let me add that our present thinking is to give this approach prospective application only. We thus do not contemplate routinely reopening decrees that have proved effective in practice. The law generally recognizes a special interest in the finality of judgments, and that interest is particularly strong in the area of school desegregation.

Nothing we have learned in the 10 years since *Swann* leads to the conclusion that the public would be well served by reopening wounds that have long since healed.

On the other hand, some school districts may have been successful in their efforts to dismantle the dual systems of an earlier era. Others might be able to demonstrate that circumstances within the system have changed to such a degree that continued adherence to a forced busing remedy would serve no desegregative purpose. Certainly, if, in the wake of white flight or demographic shifts, black children are being bused from one predominantly black school to another, the school system should not be required to continue such assignments. A request by the local school board to reopen the decree in such circumstances would be appropriate in my view, and the Justice Department might well not oppose such a request so long as we are satisfied that the three remedial objectives I have discussed will not be compromised.

There is another dimension to the administration's current school desegregation policy that deserves mention. Apart from the issue of unconstitutional pupil assignments, experience has taught that identifiably minority schools sometimes receive inferior educational attention. Whatever the ultimate racial composition in the classroom, the constitutional guaranty of equal educational opportunity prohibits school officials from intentionally depriving any student, on the basis of race, color, or ethnic origin, of an equal opportunity to receive an education comparable in quality to that being received by other students in the school district.

Deliberately providing a lower level of educational services to identifiably minority schools is as invidious as deliberate racial segregation. Evidence of such conduct by State officials might include disparities in the tangible components of education, such as the level and breadth of academic and extracurricular programs, the educational achievement and experience of teachers and administrators, and the size, age, and general conditions of physical facilities.

Indeed, *Swann* itself held that, independent of student assignment, where it is possible to identify a black school "simply by reference to the racial composition of teachers and staff, the quality of school buildings and equipment, or the organization of sports activities, a prima facie case of violation of substantive constitutional rights under the equal protection clause is shown." The Court explained that the proper remedy in such cases is to "produce schools of like quality, facilities, and staffs." Despite the recognition of this constitutional right by a unanimous Court in *Swann,* suits have rarely been brought to redress such wrongs.

In pursuing constitutional violations of this kind, the Justice Department in no way intends to second-guess or otherwise intrude into the educational decisions and policymaking of State education officials. That function, as I have previously said, is reserved to the States. And in many cases substantial disparities in the tangible components of education may well be attributable to legitimate, racially nondiscriminatory factors. But when such disparities are the product of intentional racial discrimination by State officials,

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can it seriously be maintained that the educationally disadvantaged students are being afforded equal protection of the laws?

Our future enforcement policies will be aimed at detecting and correcting any such constitutional violations wherever they occur.

In sum, the administration remains firm in its resolve to ferret out any and all instances of unlawful racial segregation and to bring such practices to a halt. We do not believe that successful pursuit of that policy requires resort to a desegregation remedy known from experience to be largely ineffective and, in many cases, counterproductive. The school desegregation amendments that have been proposed during this Congress suggest a similar attitude on the part of a number of Members of the House. To the extent that these proposals seek to restrict the use of mandatory student transportation as a tool of school desegregation, they reflect the thinking of the administration in this area.

In closing, let me state that this administration will tirelessly attack State-imposed segregation of our Nation's public schools on account of race, color or ethnic origin. The Department's mission continues to be the prompt and complete eradication of de jure segregation. While the relief we seek may differ in certain respects from the remedies relied upon by our predecessors, the Department of Justice will not retreat from its statutory and constitutional obligation to vindicate the cherished constitutional guaranty of equal educational opportunity.

Thank you Mr. Chairman, I would be happy to respond to questions that you or other members of the subcommittee may have.

Mr. EDWARDS. Pursuant to the House rules, we will comply as closely as possible with the 5-minute rule.

I recognize the gentleman from Illinois.

Mr. WASHINGTON. First of all, why did your Department back up or reverse itself on the Chicago school segregation case? I gather you took the position in July that the proposed plan of the Department of Education was incomplete. Sometime in August, I think, there was a reversal of that position. How could you have been so wrong in the first instance to reverse yourself in the second?

Mr. REYNOLDS. Congressman, I'm not at liberty to discuss that case in detail, but let me say this. I would urge you to read the public filings that have been made rather than press accounts of those filings, because if you were to read what we said in July and also to read what we said in August, I think you would find that they are absolutely consistent and in line with one another.

Our position in July was that under the consent decree that the parties were operating under out in Chicago, what the school board had submitted to us was not in sufficient detail or adequate enough for us to make a determination as to whether it was in accordance with the requirements of the consent decree, and we then requested the school board to furnish additional information. Between July and August, we met with the school board. We had negotiations that extended for some period of time. During the course of those negotiations, there was a great deal of information exchanged. And our filing in August said that the school board had provided much of the information that we had sought at the time we filed in July.

We recognized, as did the school board, that under the consent decree there was still some more information to be furnished to the court and to the parties, but that we were agreeable with regard to the program or schedule that the parties should proceed under for furnishing that additional information.

In light of that, we felt that things had moved from the position they were in in July to where they were in August. I don't believe, if you read the filings, that anybody—you or anybody else—could find any inconsistency in position whatsoever with regard to the Department's position in the Chicago case.

Mr. WASHINGTON. What is the Department's position now?

Mr. REYNOLDS. The Department's position now is as it was in July and in August. We are operating under the consent decree in the case. That consent decree lays out a specific program for desegregation in Chicago. That program has two essential components. One of the major components deals with educational environment, and the other component deals with a question of desegregation of the schools to the fullest extent practicable. And we are pursuing the school board efforts to accomplish both objectives with the consent decree.

Mr. WASHINGTON. That's a voluntary program?

Mr. REYNOLDS. That is a voluntary program. Essentially, I think that would be a correct assessment. I only seem to hesitate a little bit because the consent decree does say, as a third and final stage, that there is a mandatory backup program that the parties are supposed to agree to in the event that stages one and two fail. And so, the first two stages of that program are voluntary, but there is, under the consent decree, the ability for the parties to submit, as backup, a mandatory plan if that's needed.

Mr. WASHINGTON. Am I correct that's a 3-year voluntary program?

Mr. REYNOLDS. I believe it is 3 years.

Mr. WASHINGTON. You are aware, are you not, that some aspects of the so-called voluntary program have been tried and failed in Chicago?

Mr. REYNOLDS. I'm not aware that any of the aspects are a failure or even could be characterized a failure. I believe the first stage went in effect in September. My understanding at the present time is that, based on the experience from September to November, there's a lot of reason for optimism with regard to that program. I had not heard that there has been any part that failed. I'm aware there is one aspect in Chicago where there was a pairing of two schools and the community in that area has resisted the pairing feature of the plan. But I don't think that in any operating respects that I had ever heard of there's any reason to have any negative thoughts about the program.

Mr. WASHINGTON. Let me skip to something else. Since the *Keyes* case holding is an outgrowth of the *Swann* decision and will continue to develop the Courts' posture on desegregation, why do you hold so tightly to the *Swann* decision and apparently reject, forthwith and outright, the *Keyes* holding?

Mr. REYNOLDS. I think that the *Keyes* holding provides a presumption which I think does lead to some unjust results, at least in the way that the courts have perceived it. As I understand what

Keyes holds, it is that if you find de jure segregation in one element of the system, that there is then a presumption that it is rampant throughout the system. As a responsible litigator, I would tell you that I think what the Department ought to be doing is marshaling its evidence with respect to de jure segregation as to each school in the system. And if we can find the independent evidence to establish that it exists, then we ought to go forward in that fashion and prove our case. Relying on a presumption to do that leads one, obviously, in some of the cases anyway, to the situation where the de facto desegregation is treated in the same manner as de jure segregation, and there is no distinction made by the courts.

What we will do is to proceed in accordance with what I think the law is, to carry out our responsibility to prove racial segregation—de jure segregation in the system—to the fullest extent that it exists. But we are going to do it by responsively putting together our case and putting on our proof and not relying on presumptions.

Mr. WASHINGTON. I always thought presumptions were a part of the law.

Mr. REYNOLDS. I'm not arguing with the law. The Court does not mandate in *Keyes* that I rely on presumptions. The Court says it is available if I wish to use it. What I am saying is that I would prefer, as a litigator, to prove my case with hard evidence rather than rely on the presumption.

Mr. WASHINGTON. Well, I'll simply ask you, quite frankly, does this administration consider racial desegregation a worthwhile goal or doesn't it?

Mr. REYNOLDS. I think that the elimination of school segregation—de jure segregation—is a worthwhile goal and one that we will strive to accomplish to the fullest extent that we can do it. We are committed to do that, and we will continue to pursue all of those areas in this country where we can identify de jure segregation. And I think that is a worthwhile goal.

Mr. WASHINGTON. I assume your position is that the fact of segregation no matter how invidious or insiduous, is just not something you choose to pursue in your department?

Mr. REYNOLDS. No. Actually, I think that it is probably one of the major departures, if you will, of this administration from prior administrations. It has heretofore been the position of the Department of Justice and the Court that if it's de facto segregation, that it does not constitute a constitutional violation and that that would then not be something that is included within the realm of the Court's attention.

Our review, as I have stated it in the latter part of my testimony, is that even if you have de facto segregation, we intend to look at educational components. And if we find that there are—that State school boards or the school authorities have been intentionally treating one group of schools in a different manner than others so that you have educational disparity, that that is an equal protection violation, even though it's a de facto situation. And we then would proceed to pursue that situation and to seek to remedy it if we establish a violation.

So we are not going to—as has been the case in the past—ignore de facto situations. We feel that there is a constitutional violation if the State school boards have, even in the de facto situation—and

I'm saying de jure and de facto—I'm talking about the traditional barriers to access to schools.

But where in a de facto situation there has been an inattention—purposeful inattention—to the educational components so you have a discrepancy in the quality of education, meaning the schools within the system, that is, in our view, as much a constitutional violation as the separation problem of *Brown, Green,* and *Swann.* And we would definitely attend to that and pursue that and seek to remedy that.

Mr. EDWARDS. The time of the gentleman has expired.

We will return to the gentleman from Illinois, Mr. Hyde.

Mr. HYDE. Thank you, Mr. Chairman.

And I thank you, Mr. Reynolds, for an excellent statement.

Dr. David Armour had testified before us that in his judgment voluntary plans had not been given a sufficient chance to work and claims that they do not work is just based on insufficient evidence. Do you have any comment on that?

Mr. REYNOLDS. I would agree that. I just think—I would modify that a little bit. I think, one, they have not been given a sufficient chance, and I think the other thing which has been problematic with regard to voluntary measures is that they have been used as techniques or devices, if you will, for achieving racial balance. And I think that that's the wrong focus, especially with magnet schools.

My view is that with the experience that the school districts have had over recent years, the magnet school program can be an educationally sound program if you resort to magnet schools which enhance the curriculum or the educational program, as opposed to just putting a school in place as a magnet school as a device, if you will, to desegregate. Instead of doing that, if you use magnet schools which are educationally sound and do enhance the curriculum, then that kind of a voluntary program works. It's being used in a number of larger school districts. And I think that while 10 years ago or even 5 years ago it did not have the kind of reception that it is getting, it now is being well received and working well. And I think it has two features that are very positive:

One, it can accomplish, to a degree, desegregation; and

Two, it is educationally sound and addresses what is a major component or should be a major component of this problem.

So I would say I agree that they haven't had a full chance. And I would also say that the most recent experience that we're seeing is that certainly some of these voluntary programs can be used and used effectively both to desegregrate and to enhance education.

Mr. HYDE. Congressman Washington and I have been involved in this issue for many, many years, since 1967, in the same community—the Chicago community—and we come to this question from different persepectives, from different communities, and I am sure we think differently about this issue in many, many ways.

But notwithstanding, I cannot escape the notion that the symbolism of compulsory busing to achieve racial integration at times is more important than the quality of the education that the kids are going to get. We get hung up on statistical ratios and, if we achieve them, I sometimes think we probably walk away from the problem and give less attention to what kind of education the kids are getting.

You know, we just can't brush that aside. Mrs. Marva Collins is a gifted, quality teacher giving the young black children an education—I don't know where else in the world they could get it. It's just mind-boggling, what she is doing in terms of motivating these kids. And I just think—and I think your approach is a sound one, that where de facto or de jure segregation is involved, if equal educational opportunties aren't being given to young people, if the administration of this education is done in a discriminatory way, you are going to look into that and try to recommend actions; is that not so?

Mr. REYNOLDS. That's correct. And I do agree with everything you've said, which I have said myself.

Mr. HYDE. Thank you.

I have no further questions.

Mr. EDWARDS. Mr. Reynolds, you're taking a new tack, obviously, from the previous administration's. And since this subcommittee also is going to review your authorization for the next budget, let me ask you, how many attorneys do you have compared to the Carter administration?

Mr. REYNOLDS. I don't know if I can give you a comparison. My sense is that it would not be much different between the staff that we have now and the staff that was there before I took office.

Mr. EDWARDS. All right. Now, have you hired any experts on educational research or on the internal operation of schools to advise your attorneys?

Mr. REYNOLDS. No, Mr. Chairman. But the Department of Education has a resource there that is available and has been available for some time, and that is one resource that we are certainly relying upon and looking to.

In addition to that, we have been in contact with a number of experts in this area, some of whom have appeared before this committee and others to discuss this whole situation and to help us in putting together the proper litigation strategy to do what I stated—and Congressman Hyde has stated—address the educational components in a meaningful way, and where we found unconstitutional disparity to redress that.

Mr. EDWARDS. And now you are going to demand that the school districts that are not providing equal educational opportunity to provide that.

Mr. REYNOLDS. Where we can find there is intentional State action that translates into a deprivation of certain schools in that system, a deprivation of the kind of education that's being provided in the other schools—and we think the Constitution demands—we seek to redress that.

Mr. EDWARDS. And how many school desegregation investigations have you initiated, and how many suits have you filed?

Mr. REYNOLDS. At the moment I guess I have been in office about 3½ months, and I think that we do not have any. We certainly do not have any suits, and we do not really have a full-blown investigation. This is in the preliminary stage of, one, development, and, two, looking over different school areas to see what would be appropriate, which area it would be appropriate to move forward in. But we certainly intend to move forward on it as promptly as we can.

Mr. EDWARDS. Well, you're going to file actions and request the court to change the educational programs in schools. Doesn't that involve rather profound Federal control of the schools, rather than local control?

Mr. REYNOLDS. No, I don't think we're going to get into it in that form. As I mentioned, we are sensitive to the problems of Federal intrusion in this area. I think the educational policy is a policy for the States to make, and we would continue to adhere to that. But I think it certainly is appropriate, just as the courts have ordered, that massive amounts of money be paid to further a busing program, that if the courts find there is inattention in certain areas, they can fashion relief to require the local school board to attend to what they have not been attending to.

I would not say that it is the kind of problem that is monetary, that can be solved by money. I think that's only one component.

But I think there are a lot of other aspects to the educational component that could be and need be addressed that do not require vast expenditures of money. But I don't see any over-intrusiveness if there has been a disparity in treatment by the school authorities among different schools in its system for the court to order or command the school authorities to attend to those areas that have been unattended. And the specifics of that would, I suspect, be largely left to the school authorities.

Mr. EDWARDS. But it's obviously going to cost some money, because you're going to have to upgrade certain portions of school districts, and yet the administration wants to eliminate the Federal desegregation aid program—the Emergency School Aid Act, which was initiated by the Nixon administration to assist in just the kind of programs which you are outlining, just the kind of programs that you are going to ask the courts to order. Does that mean you are going to ask Congress to reinstate and not cancel out this program that aids in the same component areas that you are talking about now?

Mr. REYNOLDS. No, I don't think that would be necessary. I certainly would not be the one to come to Congress with that kind of a request in any event. But it does seem to me abundantly clear that if we were to take the vast sums of money that have been spent on busing, which do not come out of that fund, and apply them, as Congressman Hyde was mentioning in his colloquy earlier with Congresswoman Oakar, if we apply them to the educational components, there are funds there that are being used for something else that would then be free to be used for education, and quite a large sum.

Mr. EDWARDS. What percentage of the national public school budget is used for purposes of busing to achieve school desegregation?

Mr. REYNOLDS. I don't know the answer to that.

Mr. EDWARDS. It's less than 1 percent. So we agree you're talking about peanuts.

Mr. REYNOLDS. I am not sure. 1 percent of what?

Mr. EDWARDS. Less than 1 percent of the budget for the public school systems of our country is being utilized now for busing for desegregation purposes. Much, much more is used for just busing, because most children are bused on a daily basis to schools. But it still can translate into more than $1 million, or some millions of dollars, as Congresswoman Oakar advised this morning with regard to the Cleveland area.

Do you know of any large public schools where voluntary desegregation plans have eliminated the dual school system?

Mr. **Reynolds**. I think that down in Shreveport, La., that a voluntary plan is working extraordinarily well, that everybody down there seems to believe it's indeed eliminating the dual system. I think another one is in Port Arthur, Tex.

I would say to you that if the Chicago plan goes as we all anticipate, that will be another example.

Mr. **Edwards**. Well, we will certainly be interested in hearing more about those important areas.

The witnesses we have had before this subcommittee have consistently testified that unless there is a mandatory plan, magnet plans just don't do the job of desegregating the schools. Furthermore, you have to bus students to magnet schools.

What evidence do you have that magnet schools are going to make a difference?

Mr. **Reynolds**. Well, I think that my answer would be similar to the answer I gave to Congressman Hyde. I think there is a lot of evidence that a number of large school systems are using magnets and using them very effectively. The Shreveport example I cited to you earlier is almost a complete magnet school program that is working extraordinarily well.

I think that magnets have been used in larger systems. They are being used very well, and I assume it is the focus on the magnet schools when turned to meaningfully enhancing educational programs they have worked far better than when used as just putting in another school without any kind of enhanced educational program that goes with it and calling it a magnet.

And I think that the experience in most large school systems has been that when you use it on an educationally sound basis that it does work, and that in more recent years it seems to be working better and better. I think this is one of the elements of a remedy for the future that would be very effective.

Mr. **Edwards**. And you are prepared to go to court and file actions asking the court to order magnet schools?

Mr. **Reynolds**. The administration—we are in court now, and we have done it before, and we will continue. Yes, I would continue to pursue that if that is one of the remedies.

Mr. **Edwards**. What are you going to do in a school system like Cleveland or some of the ones in my congressional district that do not have any money?

Mr. **Reynolds**. Obviously, each of these school systems are different, and each one has its own complexity of problems, and there are a number of different approaches that we are looking at. I would obviously have to sit down and explore it with each of the school systems on an individual basis.

Mr. **Edwards**. My time has expired.

Mr. Washington.

Mr. **Washington**. Mr. Reynolds, when we were interrupted you were describing your expected approach to questions of de jure discrimination against de facto, and you broke off. Would you repeat under what conditions you would pursue areas of de facto segregation?

Mr. REYNOLDS. I think that if it came to our attention that a de facto segregation situation existed, where there was a marked disparity in the educational component between the predominantly white schools and the predominantly black schools, we would investigate to determine whether or not that was due to an intentional scheme or intentional plan or intentional actions on the part of the local authorities, by allocating on a regular basis all of the funds or all of the educational components to one area rather than to another area.

Where we found that to exist, we think that that would be as invidious a denial of constitutional protection of rights as a plan by the school board which created a dual system by assigning all students to one-race schools. And in that instance, we will seek to determine—seek to establish the constitutional violation, and we would impose a remedy that would insure that the school district is going to provide across the system a parity of education to all schools in that district.

Mr. WASHINGTON. Why would you impose the barrier of intent as a test? Furthermore, it seems to me that what you're saying is that you are subscribing in de facto cases to a return to the same old separate but equal doctrine.

Mr. REYNOLDS. As to your question of intent, I think it's clear under the Constitution that in order to establish a violation of the Equal Protection Clause you have to establish intent. So I am not sure that I'm establishing that on myself. That's part of the law, and that is an element of proof one has to meet.

Mr. WASHINGTON. You mean there is no effects test under the Constitution?

Mr. REYNOLDS. There is no effects test, certainly, in the school desegregation area. There is no effects test under the Constitution. In fact, I do not believe there is an effects test under the Constitution in any of these areas.

Mr. WASHINGTON. There is the effects test in the Voting Rights Act, is there not?

Mr. REYNOLDS. That's by statute, and it's in the section 5 only, and the Court said in *The City of Mobile* v. *Bolden* that there is not an effects test under section 2, which is the heart of the statute. That equates with the constitutional guarantee. There is a purpose test.

Mr. WASHINGTON. Aside from that, aren't you really saying that you will stand idly by in those invidious cases where you can't prove intent, and just give voice to the same old separate but equal doctrine?

Mr. REYNOLDS. Where I can't prove intent, I do not think that I have a constitutional violation that I can pursue, if that's the question you're asking. That's right.

I do not think that I could—I think it would be a futile waste of resources for us to take to court a case of this sort where we could not prove intent. I don't think the court would accept it, and I think we would wind up with a lot of wasted time and energy, and no results.

Mr. WASHINGTON. Does the *Keyes* case help you in this case?

Mr. Reynolds. No, that would not be a factor in this kind of analysis.

Mr. Washington. On page 14 of your testimony, you suggest certain remedies that your department might follow, and you view enhanced curriculum requirements as one of the standards. What do you mean by that?

Mr. Reynolds. Well, I guess probably what comes to mind most immediately is Congresswoman Oakar's testimony this morning where she endorsed the same concept. Perhaps at the elementary school level some enhanced curriculum for those children who need to have special educational attention in the basics of the curriculum. It seems to me that would be one kind of program that clearly would fit that.

Mr. Washington. How would you impose that?

Mr. Reynolds. I think you could either do it through a magnet school or do it through certain schools in the system, adding that to the curriculum. I have seen it used in both ways.

In other words, one way to do it is to have that kind of enhanced curriculum program added to certain of the elementary schools in the system. Another way to do it is to through magnet schools. I think another kind of program that would be appropriate would be some of those we are exploring where some of these jurisdictions had some sort of a summer school program or extracurricular program for that purpose.

Mr. Washington. You put a good deal of faith in the so-called magnet schools. In your examination of the magnet schools throughout the country, what has usually been the racial balance in those magnet schools?

Mr. Reynolds. I think that does vary from jurisdiction to jurisdiction. I can't give you a benchmark, if you will. It seems to me that it has varied. There have been different formulas used with regard to magnet schools. In some of the magnet schools, they have actually required that the racial balance achieved in the magnet school get some particular percentage. But in others they have not, and the extent to which the magnet schools from jurisdiction to jurisdiction have accomplished a better racial balance or a worse racial balance—I don't think one could give a rule of thumb, specifically.

Mr. Washington. You seem to have great confidence in a voluntary student transfer program. Are you using Chicago as an example of a voluntary program that could work?

Mr. Reynolds. I think Chicago is a volunteer program that will work. I understand there is some resistance in Chicago, as I mentioned, in one area, but I think that overall that the plan that is being followed in Chicago is one that people are very optimistic and positive about, and I think it is working.

Mr. Washington. One more question. On page 14, the second paragraph, you state here: "We thus do not contemplate routinely reopening decrees that have proved effective in the practice." And you approach it prospectively and you seem to qualify it. The phrase "that have proved effective in practice," I am not certain I understand the language.

Mr. Reynolds. Well, I think basically the point that I was making is that we do not believe that it really should be incumbent upon the Federal Government to go back in and reopen whatever has been put in place in these areas. I think that the local jurisdiction is the one that is going to have to live with whatever disruption might occur as a result of some reopening of the decree, and it therefore would be, in my view, anyway, for the local jurisdiction rather than the Federal Government to make the judgment that that is the kind of a situation that it wants to confront and go through.

When the local jurisdiction makes that decision, we then will take a look at its request, if we were involved in the case before, and make a judgment whether, given the factual situation and whatever changes or whatever the past experience has been, it would make sense for us to support or not support, or perhaps take no position at all. But we do not feel that the Federal Government should be in the business of going back and revisiting jurisdictions and telling them that it's now time for you to put everything back to square one. If that's what the situation is, it seems to me that is for the local jurisdiction, which is going to have to absorb whatever disruption comes out of that—it is for the local jurisdiction to make that judgment call in the first instance.

Mr. WASHINGTON. One last question. In reference to the *Keyes* case, you stated that you would rather have hard evidence in de jure segregation matters and not rely upon presumptions; that is, lawyers don't prefer to use presumptions in practice. When you were in private practice, did you hold that position of not using presumptions in cases where it was available?

Mr. REYNOLDS. In private practice I made sure I could find every single bit of evidence that I possibly could find in order to prove my case. I think actually what happened in most of these cases in the real world, Congressman, is that there is another private plaintiff in the case and if that plaintiff avails himself of the *Keyes* presumption, even if I am pursuing a different trial strategy, I suspect the court will get it both ways.

Mr. EDWARDS. The time of the gentleman has expired.

Mr. Reynolds, you have made it very clear that the administration favors voluntary desegregation plans. What about Seattle? Seattle has had a voluntary desegregation plan that, apparently, from the testimony we received, seems to be working very well. For a while, the administration supported Seattle in that voluntary plan, but now you have withdrawn support from the people in Seattle who are trying to defend themselves from State interference in their voluntary plan. Is that not inconsistent?

Mr. REYNOLDS. Well, I don't believe it is inconsistent at all. It seems to me that the State is the one, rather than the local jurisdiction, that sets educational policy for the State. It is not the Federal Government's task or legitimate function to go in and tell the State how, on educational policy matters, it should assign or delegate responsibilities. That is for the State to do. The position is articulated in our jurisdictional statement in support of the Washington initiative, which is that it is not unconstitutional for the State to exercise its judgment as to how educational policy is going to be handled on a statewide basis. If that conflicts with or runs counter to the way a local jurisdiction within the State has been handling it, that's a prerogative of the State. I don't see any inconsistency at all in that.

Mr. EDWARDS. So any city in Mississippi or Alabama or wherever, that tries to establish a voluntary desegregation plan and the State comes in and says we don't want to do it, you mean the Federal Government will always support the State? Is that what you said?

Mr. REYNOLDS. What I said is that certainly we can support and do support the State of Washington with the initiative that it has passed. Whether or not the same support would be forthcoming if you had a different initiative with different terms, obviously I don't know what my response would be to that. But certainly the statewide initiative passed in Washington is one that we can support as being a constitutional piece of legislation that the State has full and ample authority to enact.

Mr. EDWARDS. But you're going out of the way to blow up a successful local desegregation plan that was working very well.

Mr. REYNOLDS. Well, I think depending on whom you speak with, you would get different viewpoints as to how well it is working. There is one group that I heard that said it was working very well, and another group I heard that said it was an unmitigated disaster, so I am not sure. And I think you get the same division on whether it was wholly voluntary. There is certainly a group that feels they certainly didn't volunteer to have themselves subjected to that plan, and there's another group that argues it is voluntary. So I'm not sure that there's an open and shut case on it.

Mr. EDWARDS. Now, in some cities there has been federally assisted housing put in black districts which has resulted in creating or strengthening a segregated school system. Now, is that de jure or is that de facto?

Mr. REYNOLDS. Well, I think that would probably depend on a number of fact questions. I can conceive of a scenario where one could say that that contributed to a de jure situation. I can conceive of another scenario where the conclusion would have to be that there was nothing de jure, that that was de facto, and the natural evolution or phenomenon from neighborhood patterns as they evolved, and doesn't have anything constitutionally offensive about it at all. So it would depend, I think, on the particular fact situation.

Mr. EDWARDS. If you see federally supported housing or federally insured housing, having the apparent effect and intention of creating more segregated schools, would you move in and file an action or not?

Mr. REYNOLDS. If I had brought to my attention a situation where I thought the decision to locate housing in a particular area was made with racially discriminatory intent and purpose, then I would be compelled to file suit under the fair housing law with regard to that matter. I am not sure that I would feel inclined to file in the same suit, a school desegregation case. I think that those may be better handled in different litigations, rather than folded together in a quite complex, unwieldy piece of litigation that tends to result in more confusion than otherwise.

Mr. EDWARDS. Thank you.

Counsel?

Ms. Cooper. Assume that in a case before a court there is a finding both of intentional acts which created a segregated school system, and allocation of resources between these segregated schools that was unequal, so the black schools would get fewer resources than the white schools. Would you say that it would be a constitutionally adequate remedy for the courts to order a reallocation of resources so that those black and white schools receive equal resources?

Mr. Reynolds. Well, I think that would be one element of the remedy. But I think you also would have to remove the barriers that had been placed by the State in the way of an open student enrollment, so you would have to have as elements of your remedy the desegregation package, if you will, that I have outlined in my testimony. That would have to be in addition to addressing the educational component.

Ms. Cooper. Suppose the barriers are such that they are already in place in a very physical way, such as the location that the school board chose to put new schools, the expansion of black schools to accommodate a growing black population, rather than having those additional black students go to neighborhood white schools, and so forth. What would be the appropriate remedy in these circumstances?

Mr. Reynolds. Well, in the abstract I would have to say that certainly some combination of those remedies that I have addressed on pages 13 and 14 of my testimony.

Ms. Cooper. They are what, again?

Mr. Reynolds. The voluntary student assignment program, magnet schools, and enhanced curriculum requirements, faculty incentives, in-service training programs for teachers and administrators, school closings, if you have excess capacity, or new construction where that may be called for. I'm not suggesting to you that's an exhaustive list, but certainly the relief fashioned should include some or all of those elements and maybe more.

Ms. Cooper. Well, then, are you suggesting that if a community intentionally chooses sites for its schools that create a segregated system, and those schools are built, there should be no remedy that actually desegregates those facilities other than on a voluntary basis?

Mr. Reynolds. I think, using those components that I mentioned to you, I would say that would be the proper way to address the problem. I think that every kid in America has a right to an integrated education where he wants it, especially if you have a de jure situation. I don't think that means that the Government can compel an integrated education. I don't think there's anything in the Constitution that suggests it can, or in any other cases by the Supreme Court or the lower courts. Our remedies will be designed in order to help those kids that want to have an integrated education to have it. We are going to remove whatever the artificial barriers are that the State has imposed to permit the children to have that education.

With respect to forced busing, what we are saying is, though, that we are not going to compel children who do not want to choose to have integrated education to have one. I think what we have done in our remedial package is to add the component for those children who do not choose to have the integrated education, to be insured that the education that they get is going to be in parity with and on a par with the education that everybody else is getting. And that's why we think we ought to go back and look at what *Brown* vs. *Board of Education* said and focus on what its concern was, and say the educational component is something that ought to be dealt with. And if there are children in the system who don't choose to have an integrated education, they should have the same education in the predominately one-race school. And if there are children in the system that do choose to have the integrated education, they ought to be allowed to have it. They ought to be allowed to choose it wherever they want to, and the remedy that we have put in place is going to insure that they get that.

Mr. EDWARDS. Mr. Boyd?

Mr. BOYD. Thank you Mr. Chairman.

Mr. Reynolds, I'd like to back up, if I may. The claim has been made before this subcommittee throughout the hearings on the Voting Rights Act, and also insofar as the busing cases are concerned, that the purpose or intent of deliberate discrimination is virtually impossible to prove. Now, deliberate discrimination or the "intent test," if you will, has been the only standard of proof in the busing cases; is that correct?

Mr. REYNOLDS. That's correct.

Mr. BOYD. And it's been less than impossible to prove, has it not?

Mr. REYNOLDS. It's been—you gave me a double negative.

Mr. BOYD. It has been less than impossible to prove?

Mr. REYNOLDS. It's been possible to prove; is that what you said?

Mr. BOYD. Yes.

Mr. EDWARDS. I'm sorry, we will have to leave for a vote on the floor. We have a few more questions so we'll be back.

[Recess.]

Mr. EDWARDS. The subcommittee will come to order.

Mr. Boyd?

Mr. BOYD. Thank you, Mr. Chairman.

Mr. Reynolds, before the break we were talking a little bit about the intent test and the extent to which it's been described as an impossible test. We heard such testimony continually throughout the hearings on the Voting Rights Act, but it's the only test which has ever been applied to busing cases, wouldn't you agree?

Mr. REYNOLDS. That's correct.

Mr. BOYD. Would you care to comment on how difficult intent is to prove?

Mr. REYNOLDS. Certainly in the area of school desegregation it has not been difficult at all. I guess I would say, as a general manner, that I have had a hard time understanding that argument. The courts, speaking to the standard, have made it clear that when you talk about intent, you can prove it through circumstantial evidence, indirect or direct. The *Arlington Heights* decision has a number of criteria—I think there are eight—that bear on the question of intent, all of which are permissible components to address in trying to establish intent, and it's difficult for me to understand how, with that kind of standard, proving intent, if it's there, is that difficult. Intent is a standard that is in most of the statutes, and certainly I have had more than my fair share in private practice of having to live with statutes that have intent as an element of proof, and it hasn't been an insurmountable problem any time that I'm aware of.

Mr. **Boyd**. Thank you. Your statement made reference to the *Green* case. That case has come up time and time again throughout these hearings. It has been used to support the notion that voluntary plans are unacceptable. My own reading of the *Green* case seems to indicate that it might have been decided otherwise, had the particular plan which was in effect in New Kent County, Va., been more directed toward actual integration. Would you care to comment on that conclusion?

Mr. **Reynolds**. Well, I think what the court was struggling with in *Green* was a State plan that on paper perhaps looked like it was addressing the problem, but in fact, did not really address the problem at all. The difficulty that the court found in the *Green* case with the school desegregation plan was that the State was not, in fact, implementing in good faith the plan and indeed, was almost a subterfuge, and was taking different measures to thwart the implementation. I believe the *Green* plan related only to two grades and talked about voluntary transfers with regard to two grades, while the remaining grades in the two schools were to be subject to the same segregated busing arrangement that had been going on for as long as it had been, and had been found to be offensive to the Constitution.

What the court said in *Green* is that when you have a State that is not really putting in place or implementing a true plan that would achieve the objectives, but indeed is taking certain measures to thwart it, that what has to be done is to remove that additional State impediment root and branch, and that is the holding of *Green* and all that the court really found in *Green*. I think that the "root and branch" has been used since then to mean far greater things than the court ever intended in *Green*. But I do not think that the court would have reached the same result in *Green*, had it not been facing a State plan that was really not one that allowed for voluntary desegregation.

Mr. **Boyd**. Thank you. Comments have been made throughout these hearings, again on busing, that the Supreme Court has continually supported mandatory busing. Again, my reading of *Brown* is that it does not require mandatory busing and that, indeed, what the Court has been doing since 1954 has been upholding the rather broad discretionary equitable powers of the local district and appellate courts. Is that your view?

Mr. **Reynolds**. I don't think that the *Swann* court said busing was compelled, and I think that it addressed it in the remedial context, and the courts have indeed taken that and expanded it tremendously since *Swann* without adherence to the cautionary remarks in the unanimous opinion in *Swann*, as I indicated in my testimony.

Mr. **Edwards**. Mr. Boyd, your time has expired.

Mr. **Boyd**. Thank you.

Mr. **Edwards**. Ms. Cooper?

Ms. **Cooper**. I'm a bit confused about what you mean by the fact that your department will support removal of all the State-enforced racial barriers to open access to public schools. Other than a freedom of choice plan, what do you envision will be an effective way of removing those kinds of State actions which, in the last 15-20 years, have been used by communities to segregate schools?

Mr. REYNOLDS. Well, I think, as I say, that you have a number of components of the remedy that I feel would be adequate, that I had listed in my testimony. Then I indicated to you in my answer before, I think, that what has to be achieved is the opportunity of those children who want to have the benefit of integrated education to have it.

Ms. COOPER. Isn't that the same as freedom of choice plan which does not lead to desegregation in those communities that have tried it?

Mr. REYNOLDS. Well, I guess that I think what it is is a plan that has a number of elements that primarily rely on the choice of students to go where they want to go. But it also has a desegregative component in it in terms of magnet schools, in terms of faculty incentives, in terms of school closing where you have excess capacity, in terms of new construction for schools that can be placed in strategic locations where there is overcrowding, in terms of some adjustments to zones where that can be properly done.

Ms. COOPER. Well, I don't see how those kinds of remedies act as any kind of disincentive for a community that wishes to segregate its schools by the kind of techniques that have been used in the last 20 years.

Mr. REYNOLDS. I think it provides ample opportunity for those who want to attend a school other than the school they are attending to do so, and I would say that under that kind of a program, it could be appropriate to require that the State afford busing transportation to those children who chose to attend another school where you had a de jure situation.

Ms. COOPER. So you don't oppose busing in all instance?

Mr. REYNOLDS. As the chairman said, we use buses to transport children to school in this country in every kind of a situation that one can think of. What I do not endorse is court-ordered, forced busing.

Ms. COOPER. Well, if the court orders magnet schools, and the only way to get to the magnet school is by busing, isn't that enforced busing?

Mr. REYNOLDS. No, because the children get to choose whether or not they want to attend a magnet school, and then transportation is provided. But nobody is saying you have to go to this school. I mean, the problem with the forced busing remedy—at least one problem—I think there are a number of problems—is that that kind of a remedy says that now that we found it offensive for the school system to assign students to a particular school based on race, we are going to condone the school system to assign those students to another school based on race. You're doing the same thing in your remedy that you say is so offensive.

Ms. COOPER. But some of the remedies that you have suggested as alternatives do take race into account, do they not? Such as teacher assignments, construction of new schools in integrated neighborhoods, and redrawing of attendance zones. These are race-conscious remedies, are they not?

Mr. **Reynolds**. That's right. They do take race into account. That's right.

Ms. **Cooper**. Well, would you say that the department and the administration would not support a proposal that would forbid Federal courts from ordering any kind of race-conscious remedy?

Mr. **Reynolds**. Well, I would have to see the kind of proposal you're talking about. I would say, as I have said before, that the administration is certainly in accord conceptually with the legislation that now addresses the student assignment/student transportation aspect.

Ms. **Cooper**. What about the Mottl amendment which goes beyond transportation, and extends to all remedies that have a race-conscious element to it?

Mr. **Reynolds**. I guess I'm not sure that the Mottl amendment goes that far. But I would have to examine that in specific terms.

Ms. **Cooper**. But to the extent it would interfere with the Federal courts' authority to order remedies other than busing, the department then would want to consider that more carefully; is that a fair statement?

Mr. **Reynolds**. Yes. I would want to consider it. I think where you have an element of the violation—for example, assignment of faculty on basis of race—to cure that violation, certainly the remedy could contemplate some reassignment of faculty members that had been subject to that violation.

Mr. **Edwards**. Well, we thank you very much, Mr. Reynolds, for appearing before us today and I think you might guess at least the majority has a certain feeling of skepticism toward the administration and your plans for the desegregation of our country's schools. I certainly won't go so far to say it's a trojan horse—more separate but equal—but we are going to watch very carefully how many actions you file and how successful they are and how you enforce the law, because that's our job, and we hope to have you back very soon to keep us up to date on your plans.

Mr. **Reynolds**. Thank you, Mr. Chairman.

[Whereupon, at 12:15 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX 1

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BUSING AND THE LOWER FEDERAL COURTS

Prepared at the Request of the
House Judiciary Committee

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August 22, 1979

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BUSING AND THE LOWER FEDERAL COURTS

For more than a decade after the Brown decisions, the issue of student busing was not considered in detail by the courts, largely because of near universal judicial acceptance of "freedom of choice" as a desegregation remedy. The only references to busing concerned the State's responsibility to make transportation facilities available on a nondiscriminatory basis to all students who voluntarily chose to attend school outside their residential neighborhood. For example, in Willis v. Walker,[1] a 1955 decision by the District Court for the Western District of Kentucky, Judge Swinford stated:

> The defendants, by their answers, plead overcrowding of existing school buildings and the inadequacy of transportation facilities. I think that these conditions are to be taken into consideration by the court in fixing a date for integration, but I do not think that any of them are excuse for unlimited delay.

Similarly, Broussard v. Houston Independent School District[2] involved a freedom of choice plan providing for separate buses to serve students attending one black and one white school in the district. In approving the plan, the district court observed, "In this manner the children will be able to select the school they wish to attend by the bus they ride." The Fourth Circuit Court of Appeals in Gilliam v. School Board of the City of Hopewell[3] held in 1965 that "[t]he constitution does not require abandonment of neighborhood schools and the transportation of pupils from one area to another solely for the purpose of mixing the races in the schools." Judge Haynsworth found in Gilliam that the boundaries the school board used in making assignments were in accordance with natural geographical features and were not grounded in racial factors.

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[1] 136 F. Supp. 177, 181 (W.D.Ky. 1955).

[2] 262 F. Supp. 262, 266 (S.D. Tex. 1966); In addition, Judge Haney found that the neighborhood school policy maintained by the Houston school board was supported by "a host of reasonable and compelling" considerations:

(Continued)

Much of the initial impetus behind the use by the lower Federal courts of student busing as a desegregation technique derived from Supreme Court rulings in the last decade. As observed, the Supreme Court in the

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(2 Continued)

> Clear present need and other relevant factors such as accessibility of the facility, the safety and physical convenience of the student, the minimal exposure of the younger students to nonsupervision, the home and family and community advantages of a nearby school, a due regard for prevailing traffic arteries and patterns, and the general feasibility characterize the local school building project rather than the suggestion of intended racial discrimination. 262 F. Supp. at 270.

[3] 345 F. 2d 325, 328 (5th Cir. 1965).

1968 Green case held that freedom of choice or any other "racially neutral" student assignment policy is not a constitutional end in itself; rather, any plan has to be judged by its "effectiveness" and school officials have an "affirmative duty" to take "whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." However, neither Green nor any other Supreme Court ruling has held that student busing is a necessary adjunct to constitutionally adequate desegregation in all cases. The Green Court itself recognized that "there is no universal answer to the complex problems of desegregation; there is obviously no one plan that will do the job in every case." While the Court in Swann approved the use of racial "ratios" and judicially enforced transportation schemes, provided that they did not exceed certain limits (i.e. that "the time or distance of travel is [not] so great as to risk the health of the children or significantly impinge on the educational process")[4/], it also acknowledged the potential of other forms of relief--such as the construction of new schools and the closing of old ones, remedial altering of

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[4/] The "Finger Plan" affirmed by Swann required that as many schools as practicable reflect the 71/29 percent white/black student ratio of the district as a whole and resulted in the busing of approximately 30,000 of the system's 84,500 students in the first year of its implementation. The trips for elementary school students averaged about seven miles one way and the district court found that they would take "not over 35 minutes at most." This, in the Court's view, compared "favorably" with the transportation plan previously operated in the the Charlotte-Mecklenburg system under which each day 23,600 students in all grade levels were transported an average of 15 miles one way for an average trip requiring over an hour. "In these circumstances, we find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to walk-in schools."

attendance zones--which may or may not involve additional transportation of students. As in other equity cases, the lower Federal courts were vested with "broad discretion" to determine, in the first instance, what specific measures may or may not be necessary to achieve "the greatest possible degree of actual desegregation" in a given case.

Without more specific guidance from the Supreme Court,[5] lower courts in the post-*Swann* era have taken varying approaches with regard to the extent of busing that will be required. For example, the Fifth Circuit in *Mannings* v. *Board of Public Instruction of Hillsborough Co.*, 427 F.2d 874 (5th Cir. 1971) approved a plan to desegregate the Tampa, Florida school system which required the busing of 52,000 students in 1971-72, an increase of some 20,000 students over the previous school year. Total rides averaged 45 minutes to 1 1/2 hours one way. On the other hand, a Federal district court in Memphis--where total desegregation could have been accomplished by a plan involving bus rides up to 60 minutes--accepted a plan which left some 25,000 black students in 25 all-black schools, but which reduced the average bus ride to 38 minutes.[6] The final plan required the busing of 38,000 pupils, with no rides over 45 minutes long, even though it left untouched two all-black high schools, four all-black junior high schools and 19 all or predominantly black elementary schools. *Northcross* v. *Board of Education*, 341 F. Supp. 583 (W.D. Tenn. 1972), *aff'd* 489 F. 2d 15 (6th Cir. 1973), *cert. denied* 416 U.S. 962 (1974). The Sixth Circuit affirmed the district court's consideration of the "practicalities" involved in busing, and quoted with approval from the decision below:

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[5] In his ruling on application for a stay order in *Winston-Salem/Forsyth County Board of Education* v. *Scott*, 404 U.S. 1221 (1971), Chief Justice Burger, sitting as Circuit Justice, offered some additional indication of the limits imposed by *Swann* on student busing. The Chief Justice found "disturbing" the district court's apparent agreement with the school board that *Swann* required that each school have a proportion of blacks and whites corresponding to the proportion prevailing in the system as a whole. He denied the stay application, but only after chastising the board for being vague in its reference to "one hour average travel time" and indicated, "by way of illustration," that three hours would be "patently offensive" when school facilities are available at a lesser distance. He also stressed that he would be disposed to grant the stay if it had been made earlier and more accurately and seemed especially concerned that the court's order called for 16,000 more students to be transported in 157 more buses, nearly double the number before adoption of the plan.

> The lesser degree of desegregation in [the plan adopted] is based primarily upon four factors pertaining to effectiveness, feasibility, and pedagogical soundness. Those factors are time and distance traveled on buses, cost of transportation, preservation of desegregation already accomplished, and adaptability. 489 F. 2d at 17.

Although it had on a previous appeal rejected expert testimony that busing itself was undesireable, the Sixth Circuit apparently approved the use of such evidence in determining how much busing to use, noting that "[t]he one psychological expert was of the opinion that a shortening of the time or distances of transportation would inure to the benefit of many school children, especially the younger ones."[7/]

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[6] Plans I and III, as presented to the district court, would have placed 97% of all students in desegregated units, 48,000 children would have been bused, and a majority of those (75% to 80%) would have had a bus ride of 31 to 45 minutes each way. Of those bused, 9,700 students would have a 46 to 60 minute ride each way, and most of these would have been elementary students. Plan II, which the court adopted, left 25 all-black or predominantly black units (19 elementary schools, 4 junior high schools, and 2 high schools), 83% of the students would attend school in desegregated units, 38,000 children would be bused, and 44% of those would have a 31 to 45 minute bus ride each way, with no ride being over 45 minutes.

In Thompson v. School Board, 498 F. 2d 195 (4th Cir. 1974), the Fourth Circuit Court of Appeals affirmed a finding by the district court that a desegregation plan for Newport News, Virginia which would have involved bus rides of up to two and one half hours of travel time a day for first and second graders was not "feasible." The plan had been prepared by an "expert" who was unfamiliar with the situation in Newport News and who testified that the time and distance to be traveled had not entered into his consideration when preparing the plan. Without remanding for consideration of alternatives, however, the appeals court affirmed a neighborhood school plan based on three factors--"(1) the transportation problems within the city, (2) the educational process, and (3) the health and ages of the very young children who would be

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[7/] The weight of authority appears to the contrary on the relevance of sociological evidence to the issue of the propriety of busing as a remedy in school desegregation cases. In United States v. Board of School Commissioners, Indianapolis, Ind., 503 F. 2d 68, 84 (7th Cir. 1974), the Seventh Circuit ruled that the district court had properly excluded the testimony of two expert sociologists that "mandatory busing programs could result in adverse sociological and psychological effects on the children involved. . ., that prejudice, racial solidarity and the desire for separatism was usually enhanced rather than diminished, and that over the short run busing for purposes of integration did not lead to significant gains in student achievement or interracial harmony." See, also, Mapp v. Board of Education, 477 F. 2d 851 (6th Cir.), cert. denied 414 U.S. 1022 (1973).

transported." This drew the dissent of three judges on the appellate tribunal who felt that "busing within workable parameters may facilitate integration of a number of classes in grades 1 and 2." 498 F. 2d at 201.

Short of the presumptive upper limit of three hours suggested by the Chief Justice in the *Winston-Salem/Forsyth* case, and the broad health and safety limitations noted in *Swann*, there appear no hard and fast rules as to the time or distance of travel that will be permitted, but the courts in several cases have observed that the extent of required busing compared favorably with that in *Swann*.8/ Besides the time and distance of travel, the courts have recognized a host of other factors, including the age of the students involved, in determining how much busing is proper, and taken into account traffic hazards or other complexities of transportation in approving a plan of desegregation.

8/ See, e.g. *Vaughn* v. *Board of Education of Prince George's County*, 355 F. Supp. 1051 (D. Md. 1972), *aff'd* 468 F. 2d 894 (4th Cir. 1973) (maximum busing time of 35 minutes per pupil, with mean average of 14 minutes per one-way bus trip compared with 35 minute maximum in *Swann* though that represented a reduction in maximum one-way bus trips prior to desegregation in that case); *Brewer* v. *School Board of City of Norfolk, Va.*, 456 F. 2d 943 (4th Cir.), *cert. denied* 406 U.S. 905 (1972) ("30 minutes each way" not "substantially different" from that required by *Swann*); *Moss* v. *Stamford Board of Education*, 356 F. Supp. 675 (D. Conn. 1973) (plan provided "maximum time to be spent on the buses by any child is 34 minutes--slightly less than the maximum time in the *Swann* case and there found acceptable"); *Morgan* v. *Kerrigan*, 401 F. Supp. 216 (D. Mass. 1975), *aff'd* 530 F. 2d 401 (1st Cir. 1976) (under final plan approved for Boston schools "the average distance from home to school will not exceed 2.5 miles, and the longest possible trip will be shorter than 5 miles" with travel time averaging "between 10 and 15 minutes each way, and the longest trip will be less than 25 minutes").

The district court in United States v. School District of Omaha, 418 F. Supp. 22 (D. Neb. 1976), aff'd 241 F. 2d 708 (8th Cir.), vacated on other grounds 423 U.S. 946 (1976) particularly stressed the age factor when it excluded all first grade school children from the mandatory student assignment portion of a desegregation plan for the Omaha public schools.[9] In another ruling, Medley v. School Board of Danville, Virginia, 350 F. Supp. 34, 51 (W.D. Va. 1972) the court excepted grades one through four from its order mandating a prescribed racial ratio in each the district's schools. Judge Widener stated that "unless compelling circumstance require otherwise, the youngest elementary students should [not] be bused for the sole purpose of achieving mathematical precision." Taking a contrary position, however, is the Fifth Circuit Court of Appeals which has ruled that the "vague, conclusory, and unsupported assertion that children under 10 years old should not be bused for the purpose of desegregation" did not justify the failure of Austin, Texas school officials, who submitted a desegregation plan for the sixth grade, to desegregate grades K to 5. United States v. Texas Education Agency, 532 F. 2d 380 (5th Cir. 1976). Similarly, the Eight Circuit in Haycroft v. Board of Education of Jefferson County, Ky., 585 F. 2d 803 (6th Cir. 1978), reversed a district court order which exempted first grade students from a plan requiring one way bus trips of "at least 45 minutes." "We find no justification for the non-inclusion of first grade students. They are part of the normal curriculum of the district and entitled to a full and equal integrated education."[10/]

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[9] Judge Shatz observed in his Omaha ruling that:

> The evidence in this case is persuasive, and common sense dictates, that children who are attending a full day of school for the first time are subject to a high risk of failure (or retention). These youngsters are in a transitional period from a home and neighborhood environment into a structured and well-ordered public type of environment. At the first grade age, such pupils are not yet, on a comparative basis, physicially as strong as the children in the higher grades and are subject to periods of frequent illness. Because it is their first year of full-day school involvment, these children tend to be immature and easily frustrated. It is during the first year that these children learn to read, which alone is a difficult undertaking, and which first establishes their learning patterns for the remainder of their lives. For these reasons, it is the opinion of this court that the interests of the students in question, from an educational and psychological standpoint, are best served by minimizing, wherever possible, all of the circumstances which may tend to make more difficult, rather than enhance, their first formative year. 418 F. Supp. at 25.

Another practicality the courts will consider in determining the appropriate scope of student busing orders is the existence of geographical barriers or traffic conditions that may make transportation hazardous or exceedingly difficult to implement. In Stout v. Jefferson County Board of

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[10/] 585 F. 2d at 806. See also, Flax v. Potts, 464 F. 2d 865 (5th Cir. 1972); Clark v. Board of Education of Little Rock School District, 465 F. 2d 1044 (8th Cir. 1972); Penick v. Columbus Board of Education, 583 F. 2d 787, (6th Cir. 1978), aff'd No. 78-610, 47 U.S.L.W. 4924 (7/2/79); NAACP v. Lansing Board of Education, 581 F. 2d 115 (6th Cir. 1978).

Education, 537 F. 2d 800 (5th Cir. 1978), the United States challenged a desegregation plan that left intact two all-black and one all-white neighborhood schools in a system approximately 80 percent white. To effectively desegregate these facilities, district court found, would require pairing them with schools some 9 to 13 miles away in an adjoining student attendance zone. This would have resulted in transportation times of 20-23 and 33-41 minutes, one way, for students transferred between zones. Although the Fifth Circuit found that "these factors, standing alone, would not seem prohibitive," it "reluctantly" affirmed the trial court refusal to order busing because of "a substantial chain of hills or small mountains" dividing the two zones. Describing the natural barriers, the appeals court stated:

> Shades Mountain, a chain of substantial hills or small mountains, rises along the western boundary of the Berry zone, presenting an almost sheer bluff between Wenonah [the other zone]. Only two roads across Shades mountain are suitable for transporting students between the zones. One is a major truck route which, as it descends the mountain, has produced more accidents than any other segment of road of similar length in Alabama. The other is steep and winding and carries a heavy volume of automobile traffic during morning school hours.

These considerations, "together with those of time and distance," were sufficient to sustain the district court finding that busing between the two zones was "dangerous and infeasible." 537 F. 2d 801.

But another recent Fifth Circuit ruling indicates that school officials have a substantial burden of justification for the exclusion of racially identifiable schools from a comprehensive plan because of the geographical features of the school district. Tasby v. Estes, 572 F. 2d 1010 (5th Cir. 1978), cert. gr. No. 78-253, 47 U.S.L.W. 3554 (2/10/79). That case involves efforts to desegregate the Dallas Independent School District (DISD), an enormous school system both from the standpoint of geography and student population (138,000). The heart of the Dallas plan was the division of the district into six subdistricts; four of these subdistricts were zoned to achieve a student racial mix approximating the district as a whole, two others containing a predominant ethnic group. Seagoville was predominantly Anglo-American and East Oak Cliff, bounded by the Trinity River bottom on one side and I-35 on the other, was about 98 percent black. The district court, Judge Taylor, concluded, in light of the natural boundaries and "white flight," that this was the only "feasible" division of the district and that no "practicable" means existed for desegregating Seagoville and East Oak Cliff.

A three judge panel of the Fifth Circuit rejected this conclusion, however, because the district court had not made an adequate inquiry as to whether more extensive usage of the desegregation tools described in Swann, including school pairings and busing, would in fact remove the racial identifiability of Seagoville and East Oak Cliff districts. The key language of the opinion is

> The DISD acknowledges that the creation of the all black East Oak Cliff subdistrict and the existence of a substantial number of one-race schools militates against the finding of a unitary school system. It contends, however, that this is the only feasible

> plan in light of natural boundaries and "white flight." The district court was instructed in the opinion of the prior panel to consider the techniques for desegregation approved by the Supreme Court in Swann v. Charlotte-Mecklenburg Board of Education [citation omitted]. We cannot properly review any student assignment plan that leaves many schools in a system one race without specific findings by the district court as to the feasibility of these techniques. [citations omitted]. There are no adequate time or distance studies in the record in this case. Consequently, we have no means of determining whether the natural boundaries and traffic considerations preclude either the pairing and clustering of schools or the use of transportation to eliminate the large number of one-race schools still existing.
> 572 F. 2d at 1014.

A number of early post-Swann decisions implied that the courts would be more inclined to utilize busing remedies where the school district has provided transportation services to its students in the past and the desegregation plan requires only a "moderate increase in transportation to eliminate all vestiges of the longstanding dual school system in affected schools." Tillman v. Board of Public Instruction, 430 F. 2d 309 (5th Cir. 1971). Thus, in rejecting a school board's contention that the plan approved by the district court was "excessive" and "unreasonable," the Fourth Circuit in Eaton v. New Hanover County Board of Education, 459 F. 2d 684 (4th Cir. 1972) emphasized that

> During the 1970-71 school year the Board transported approximately seventy-five hundred students on seventy-eight buses. The plan directed by the district court will add only some twenty-six hundred students to the total of those to be transported and requires only an additional thirty-eight

> buses. There is nothing to support the contention that the proposed busing program involves time or distance of travel that would be so great as to risk the health of the children or otherwise significantly impinge on the educational process. 429 F. 2d at 686.

Similarly, the Eight Circuit in *United States* v. *Watson Chapel School District No. 24*, 446 F. 2d 933 (8th Cir. 1971) sustained a HEW plan which the school board charged would double the number of students bused on the basis of the fact that the school district was already engaged in busing over 1,200 students. In so doing, however, the court accepted HEW's assertion that the plan would require only "the rerouting of present buses and if there were to be an increase it would be very slight" and that it could be fully implemented with the addition of two buses to the district fleet.

But it now appears that the magnitude of the administrative burden thrust on the school system, either in terms of the aggregate increase in the number of students bused or the additional transportation costs to the district, will not *per se* defeat a plan deemed by the courts essential to achieving constitutional compliance.[11] According to a recent study,[12] Charlotte, North Carolina by the 1975-76 school year had doubled its bus riding student population to accomodate desegregation at a total annual cost of $612,128. Dallas, Texas has had two orders; one requiring 7,000 students to be transported for desegregation,[13] the other 18,000.[14] The total cost of student transportation to achieve desegregation has been estimated at about $500,000 per year. In Jefferson County, Kentucky, the merger with Louisville schools for purposes of desegregation involved the transportation of 19,000 more students.[15] According to Van Fleet, the number of miles traveled nearly doubled from 27,000 to 53,000 daily. Before desegregation and merger the district operated 572 buses for a total cost of $3.5 million; thereafter, 629 buses were used at a cost of $7.25 million. In Denver, Colorado, almost 15,000 more students were transported to school the first year of desegregation and another 1,000 the second year.[16]

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[11] In its discussion of the various equitable remedies available to the Federal courts once an equal protection violation has been established, *Swann* itself pointed out that "[t]he remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems." 402 U.S. at 28. It is likewise clear that neither the Tenth nor Eleventh Amendment precludes a monetary award against the State or local officials to support a *prospective* plan "designed to wipe out continuing conditions of inequality produced by the inherently unequal dual school system." *Milliken* v. *Bradley*, 433 U.S. 267 (1977).

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[12] Van Fleet, Alanson A., "Student Transportation Cost Following Desegregation," Integrated Education, vol. 15, pp. 75-77 (Nov.-Dec. 1977). Van Fleet estimates that nationally, 21.3 million students (51.5 percent) were transported to school in the school year 1973-74, only 7 percent for desegregation purposes, at a cost of $1.85 billion, or $87 per pupil transported. This 7 percent figure is supported by recent government estimates. The Department of Health, Education, and Welfare late last year estimated "that 48.2 million students will attend school from kindergarten through high school [in 1978-79]. At least 40 million of them are eligible to ride buses, and between 5 and 8 percent--roughly 2 million--are being transported in an effort to stop racial segregation at the schools they attend." Washington Post, p. A 14 (September 3, 1978).

[13] Tasby v. Estes, 342 F. Supp. 945 (N.D. Tex. 1971).

[14] Tasby v. Estes, 412 F. Supp. 1192 (N.D. Tex. 1976).

[15] Newburg Area Council, Inc. v. Board of Education of Jefferson County, Ky., 510 F. 2d 1358 (6th Cir. 1974), cert. denied 429 U.S. 1074 (1977).

[16] Keyes v. School District No. 1, 380 F. Supp. 673 (D. Colo. 1974).

During the two year period the cost for transportation increased $2.6 million. The desegregation plan implemented in the 1970-71 school year in Pasadena, California resulted in the busing of about 60% of the elementary school students (8,000), 50% of the junior high students (3,600), and 278 of the senior high students (1,900), at a total transportation cost of $1,240,868.[17] In Prince George's County, Maryland, the plan approved by the district court in 1973 required the transportation of an additional 12,000 students and 43 new buses at a cost of about $325,000, with about $1 million annually for increased drivers' salaries and bus maintenance.[18] Judge Demascio, in the Detroit case,[19] ordered the State of Michigan to purchase 150 additional buses to transport 21,853 students reassigned by the final plan in that case.[20] Finally, the Boston Plan affected some 80,000 students, with 21,000 of these being bused.[21]

In 1974, Congress itself sought to provide the courts with guidance in this area by prescribing alternative remedies for segregated schools, in effect declaring, as a matter of legislative policy, that student busing should be a remedy of last resort in school desegregation cases. Title II of the Education Amendments of 1974, captioned "Equal Educational Opportunities and Transportation of Students," specifies practices which are to be considered denials of due process and equal protection of the laws[22] and delineates a hierarchy of relief, ranging from the more preferred to the less preferred and even prohibited.[23] In addition, § 215 of the act imposes certain restrictions on the amount of busing that may be required to enforce school desegregation orders.[24] The most important is § 215(a) which purports to prohibit the courts and Federal agencies from ordering a plan "that would require the transportation of any student to a school other than the school *closest or next closest* to his place of residence which provides the appropriate grade level and type of education for such student."[25] However, this latter limitation has been held not to bind judicial authority in cases involving constitutional violations, that is, those where there has been a finding of *de jure* segregation. This has resulted largely from the court's interpretation of a statement in the congressional findings preceding the act which declares that nothing in Title II "is intended to modify or diminish the power of the courts of the United States to enforce fully the Fifth and Fourteenth Amendments to the Constitution of the United States."[26]

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[17] *Spangler* v. *Pasadena City Board of Education*, 311 F. Supp. 501 (C.D. Cal. 1970).

[18] *Vaughn* v. *Board of Education of Prince George's County, Md.*, 355 F. Supp. 1034 (D.Md. 1972).

[19] *Bradley* v. *Milliken*, 519 F. 2d 679 (6th Cir. 1975), *modifying and aff'g* Order, *Bradley* v. *Michigan*, Civ. No. 35257 (E.D. Mich., May 21, 1975). The Court of Appeals modified Judge Demascio's order to direct the State to pay 75% of the cost of the buses on the same formula and payment schedule applied to districts routinely receiving State transportation assistance.

[20] Memorandum and Order (Nov. 4, 1975).

[21] *Morgan* v. *Kerrigan*, 530 F. 2d 401 (1st Cir. 1976), *cert. denied sub nom.* *McDonough* v. *Morgan*, 426 U.S. 935 (1976).

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[22] 20 U.S.C. 1703.

[23] Section 214 of the act establishes a "priority of remedies" which is to be applied in order until compliance with desegregation is achieved. 20 U.S.C. 1713. The courts are to consider and make specific findings with regard to the efficacy of the following remedies before requiring implementation of a busing plan:

> (a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;
>
> (b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;
>
> (c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin.
>
> (d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 1714 of this title;
>
> (e) the construction of new schools or the closing of inferior schools;
>
> (f) the construction or establishment of magnet schools; or
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> (g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 1714 and 1715 of this title.

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[24] 20 U.S.C. 1714.

[25] 20 U.S.C. 1714(a) (emphasis added).

[26] 20 U.S.C. 1702(b); In *Dayton Board of Education* v. *Brinkman*, 518 F. 2d 853 (6th Cir. 1975), *cert. denied* 423 U.S. 1000 (1976), the Sixth Circuit pointed to this language in refusing to adhere to the "closest or next closest school" limitation and ruled that the 1974 Act, taken as a whole, restricted "neither the nature nor scope of the remedy for constitutional violations in the instant case." See, also, *Morgan* v. *Kerrigan*, 401 F. Supp. 216 (D. Mass. 1975), *aff'd* 530 F. 2d 401 (1st Cir.), *cert. denied* 426 U.S. 935 (1976); *Hart* v. *Community School Board*, 512 F. 2d 37 (2d Cir. 1975); *Evans* v. *Buchanan*, 415 F. Supp. 328 (D. Del. 1976), *aff'd* 555 F. 2d 373 (3d Cir. 1977); *Newburg Area Council, Inc.* v. *Gordon*, 521 F. 2d 578 (6th Cir. 1975).

Nonetheless, the Federal courts in several recent cases involving major urban school districts appear to have accorded some recognition to the Congressional policy set forth in the 1974 act by endeavoring to conform their remedial decrees to the priorities set forth in § 214 to avoid excessive or unnecessary busing. Referring to the act, the district court in Newburg Area Council, Inc. v. Board of Education of Jefferson County, Ky., No. 704 (W.D. Ky. 1975) (unreported decision), aff'd 541 F. 2d 538 (6th Cir. 1976) observed that in issuing its order to desegregate the newly consolidated Jefferson County/Louisville Kentucky school system, it had

> scrupulously attempted to follow [the act] to the extent that. . .it complies with the Constitution as interpreted by the current decisions of the federal courts, including the Supreme Court of the United States. Accordingly, the Court, in formulating a remedy to correct the denial of equal educational opportunity or a denial of equal protection of the laws which the Supreme Court found to exist in this case, has considered and hereby makes specific findings that Section 214 dealing with the priorities of remedies has been considered and followed by the court to the best of its ability and the priorities therein delineated have been meticulously followed as well as the other provisions of the amendments adopted by Congress in 1974.

The plan approved by the court in the Louisville case incorporated to a substantial degree certain of the remedial alternatives spelled out in the act, primarily the use of school closings and remedial altering of attendance zones. With respect to the assignment of students, the plan consisted of essentially three components. First, it provided for the closing of twelve schools which the court found were then being underutilized because of declining student enrollments. Second, the court found that 28 other schools in the county could be adequately desegregated without resort to any other remedial tool than redistricting and the creation of new school attendance boundaries. Only after exhausting these approaches, which required no additional transportation of students, did the court order the pairing or clustering of black and white schools, and the transfer of students between them, to achieve the appropriate level of desegregation.

The district court in Morgan v. Kerrigan, 401 F. Supp. 216, 263 (D. Mass. 1975), aff'd 530 F. 2d 401 (1st Cir. 1976) also relied on the remedial alternatives specified in § 214 of the act when it ordered into effect a comprehensive plan to desegregate the Boston schools, stating the "[r]evision of attendance zones and grade structures, construction of new schools and closing of old schools, a controlled transfer policy with limited exceptions and the creation of magnet schools have been used in the formulation of the plan here adopted to minimize mandatory transportation." Perhaps the most notable aspect of Judge Garrity's order in the Boston case was the extensive use made of the "magnet school" concept to achieve desegregation with minimum busing. The final plan established 22 such schools, offering specialized courses of study, to be attended on a voluntary basis by students throughout the city. The court further ruled, however, that some busing in excess of the limits imposed by the 1974 act was necessary to eliminate the dual school system in Boston.

Other courts have eschewed the use of massive busing, particularly where, because of a large preponderance of black students in the district, it appeared either that the plan would have little appreciable effect in alleviating segregation in the schools, or might, in fact, aggravate existing conditions and lead to possible resegregation of the system by encouraging "white flight." In the Detroit case, for instance, Judge DeMascio rejected as too "inflexible" plans submitted by the school board, and another by the NAACP, indicating that "transporting children is an extraordinary remedy to be employed only when appreciable results may be accomplished thereby and then only when other alternatives have been exhausted." Bradley v. Milliken, 402 F. Supp. 1096, 1133 (E.D. Mich. 1975). The plaintiffs' plan would have essentially involved the pairing and coupling of schools, and the busing of some 80,000 students, so that each school within the district would reflect the racial ratio of the city as a whole. The board plan, which made more extensive use of magnet schools and "parttime integration" by use of special biracial programs, limited student busing to that necessary to eliminate identifiably white schools in the district by imposing a requirement that all such schools be made 40% to 60% black in student composition.

Observing that the Detroit school system was 71% black in student population, and that recent demographic trends indicated a continuing increase, the court characterized the plans of the parties as too "inflexible" or "rigid" in that they "failed to take account of the practicalities at hand, such as demographic trends, financial limitations, existing grade structures and naturally integrated neighborhoods." Specifically, the court criticized the plans as

> rely[ing] exclusively on transportation to reassign students without exploring alternative techniques. In the final analysis, it is because both plans are inattentive to such practicalities that both plans must be rejected. Because both plans ignore the 'practicalities' both plans require transportation that is, at least to some degree, unnecessary to achieve integration. 402 F. Supp. at 1132.

The court went on to issue guidelines for formulation of a new plan, adopting the school board's approach insofar as it was limited to elimination of all-white schools but rejecting the "rigid adherence" to racial quotas and massive busing. Instead the court called on the board to give greater consideration to the alteration of attendance zones to avoid unnecessary busing. "Rezoning is prefereable to busing because it reduces unnecessary transportation, permits walk-in schools and serves biracial communities." 402 F. Supp. at 1129. The final plan approved by the district court required transportation of about 22,000 of Detroit's 247,000 students, all of whom were bused to increase black enrollment in 56 schools with more than 70% white enrollment.[27]

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[27] The plan further mandated the use of other components, not directly involving the busing of students, to desegregate the Detroit schools. These included the closing of antiquated or obsolete school facilities throughout the city; the conversion of various schools to "open enrollment" or voluntary attendance basis; the establishment of four "vocational education centers" and two technical high schools modelled after the (Continued)

A similar reluctance to order massive student busing where other alternatives appeared to effectively accomplish whatever desegregation was realistically possible under the circumstances is evident in a 1975 ruling by the Fifth Circuit in the Atlanta Case. Calhoun v. Cook, 522 F. 2d 717 (5th Cir. 1975). Like Detroit, Atlanta presented the court with a somewhat extraordinary factual situation--at the time of the ruling, blacks constituted an overwhelming majority of the student population,

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(27 Continued) magnet school concept to be operated on a racially integrated basis; and the implementation of an array of compensatory education programs, e.g. remedial reading courses, in-service training for teachers and staff to deal more effectively with problems of desegregation, career counseling and guidance, and a bilingual/multiethnic study program, all designed to overcome the educational disadvantages suffered by blacks as a consequence of past discrimination. These educational components were affirmed by the court of appeals, 540 F. 2d 229, 241-2 (6th Cir. 1976), and the Supreme Court, 433 U.S. 267 (1977).

However, the Sixth Circuit, "though recognizing the absence of alternatives," remanded for further consideration of three black portions of the city excluded from the busing provisions of the plan and affirmed the pupil reassignment plan with respect to the remaining regions.

> Even though we do not approve of that part of the District Court's plan which fails to take any action with respect to schools in Regions 1, 5 and 8, this court finds itself unable to give any direction to the District Court which would accomplish the desegregation of the present racial composition of Detroit. 540 F. 2d at 239.

On remand, the district court reiterated that "when racial proportions are so extreme that adequate interaction of children of both races cannot be accomplished, further desegregation is not possible and it is unwise to distrub assignment pattern which effectively desegregate schools in other regions." 460 F. Supp. 299, 309 (E.D. Mich. 1978). It thus adhered to its earlier finding that no further desegregation could be achieved in the three regions collectively but modified its order to require some additional busing between Region 1 and an adjoining region.

about 90%. Consequently, the district court had approved a compromise plan arrived at by the parties aimed at eliminating identifiably white schools in the district, leaving unaffected 92 schools in the district with student bodies over 90% black. Given the extreme racial disproportion of the system as a whole, the district court found it "unnecessary to distribute the remaining minority whites pro-rata throughout the system" and entered an order limited to achieving desegregation of white schools, by means of voluntary transfers of black students (majority to minority transfers), and faculty and staff desegregation.

Plaintiffs appealed the district court order as constitutionally inadequate. They urged that reasonably available techniques to achieve further desegregation of black schools, particularly the transportation, zoning and pairing of white students into predominantly black schools were not utilized. They also emphasized that such desegregation as was accomplished under the approved plan had been effected entirely by the transportation of black pupils to predominantly white schools. In short, they contended that existing precedent precluded affirmance of the lower court adjudication of unitary status to a school district which had never used noncontiguous pairing, had never bused white children into predominantly black schools, and in which over 60% of its schools are all-or substantially all-black.

Characterizing the Atlanta case as "unique," the court of appeals rejected these contentions, stating that "features of this district distinguish every prior school case pronouncement." 522 F. 2d at 719. The court pointed to the fact that blacks held nearly two thirds of the administrative and faculty positions in the system as militating against a finding of discrimination in current school board policies and practices. It also affirmed the lower court finding that Atlanta's remaining one race schools were the product of its predominant majority of black students rather than a vestige of past discrimination. Accordingly, the Court of Appeals concluded by saying:

> The aim of the Fourteenth Amendment guarantee of equal protection on which this litigation is based is to assure that state supported educational opportunity is afforded without regard to race; it is not to achieve racial integration in the public schools ...Conditions in most school districts have frequently caused courts to treat these aims as identical. In Atlanta, where white students now comprise a small minority and black citizens can control school policy, administration and staffing, they no longer are. . .Plaintiff-appellants criticize the Majority to Minority Transfer Plan which the district court ordered implemented because the movement involved is entirely of black students. However, participation in this program is solely on a voluntary basis. In ultimate analysis it requires no more or less from pupils than the standard majority to minority provision we have traditionally required be incorporated in all school desegregation orders in this circuit. 522 F.2d at 719-20.

The Fifth Circuit therefore refused to disturb the district court's approval of the plan, "because based on live, present reality it is free of racial discrimination and it wears no proscribed badge of the past." 522 F. 2d at 720.

Other recent court decisions have also ruled that although constitutionally required in some circumstance, "pairing and associated compulsory busing are not remedies of first resort."[28] The Second Circuit ruling in *Hart* v. *Community School Board of Education*, 512 F. 2d 37 (2d Cir. 1975) affirmed a district court ruling to desegregate Mark Twain Junior High School in Brooklyn, New York. The plaintiffs in *Hart* had proposed a comprehensive plan utilizing traditional remedies of school pairing and student transportation to desegregate Mark Twain. The district court, however, opted for a plan more limited in scope which established Mark Twain as a magnet school for gifted and talented children operated as an integrated facility with attendance on a voluntary and selective basis. The order further provided, however, for a "backup plan" to be implemented in the event that the magnet school concept did not prove effective within specified time limits. This backup or "Model II" plan focused on the use of busing to equalize utilization of all junior high schools in the district and to bring the ratio of white to minority students into general alignment with the ratio in the district as a whole.

Plaintiffs appealed this order, charging, among other things, that the district court plan was unacceptable as nothing more than freedom of choice and would not work because white parents would not voluntarily choose to send their children to a formerly black school.

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[28] *Smiley* v. *Vollert*, 435 F. Supp. 463, 468 (S.D.Tex. 1978); *Lemon* v. *Bossier Parish School Board*, 566 F. 2d 985, 989 (5th Cir. 1978).

The appeals court rejected this contention, pointing to the success of magnet school programs in Boston and elsewhere, and held that "nothing in the Constitution says that superior educational facilities for the talented are forbidden so long as racial segregation policy plays no part." 512 F. 2d at 54. Furthermore, the court found the plan unobjectionable since the lower court had hedged the magnet school plan, which concededly would take several years for full achievement, with conditions which, if not met on schedule, would require reversion to the "Model II" plan favored by plaintiffs--the "backup" busing plan.

The foregoing indicates various of the factors the courts have considered relevant to the use of busing in school desegregation cases and the range of alternative remedies available to the Federal courts. It also suggests the complexity of the factual inquiry underlying a final judicial determination as to what constitutes constitutionally adequate desegregation within the confines of a specific case.

Another issue that has been considered by the courts relates to the authority of local officials to bus students to relieve "racial imbalance" or so-called "de facto" segregation in the schools. Swann held that absent state action, or a finding that segregated schools are the product of illicit acts by State or local officials (i.e. de jure segregation), there is no constitutional violation and the Federal courts are precluded by Title IV of the 1964 Civil Rights Act[29] from requiring busing to promote "racial balance." Thus, if segregation in the schools is a mere reflection of segregated housing patterns in the community, or otherwise results from forces beyond the control of school officials, the Federal courts are without authority to act. But *Swann* also suggests that local school officials are not so limited and may, as a matter of "educational policy," bus students to achieve a racial balance in the schools.[30]

Even prior to *Swann*, a series of lower court decisions had reached an analogous conclusion in suits by white parents attacking the constitutionality of voluntary efforts taken at the State or local level to eliminate or alleviate *de facto* segregated conditions in the public schools. In *Fuller* v. *Volk*, 230 F. Supp. 25 (D.N.J. 1964), for instance, the school board, under a plan to reduce racial imbalance in the public schools, assigned all sixth grade students to one city-wide school and gave all students in grades one through five in that school the option to attend other specified elementary schools. The plaintiffs, parents of white sixth grade children, argued that the plan had been adopted solely because of racial considerations, that their children were being discriminated against on the basis of race because they could not attend their neighborhood schools and that, therefore, the plan was unconstitutional. Disagreeing, the court held that "a local board of education is not constitutionally prohibited from taking race into account in drawing and redrawing school attendance lines for the purpose of reducing or eliminating de facto segregation in the public schools." 230 F. Supp. at 34.

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[29] Congress withheld authority from the Attorney General to seek, and from a Federal court to issue, an order under Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c-6(a), calling for the busing of pupils from one school to another to "achieve a racial balance."

> ...provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance,...

[30] In *Swann*, 402 U.S. at 16, the Court stated:

> School authorities are traditionally charged with broad power to formulate and implement educational policy and might well conclude, for example, that in order to prepare students to live in a pluralistic society each

(continued)

Action taken to implement New York State policy on racial imbalance has frequently been challenged in the courts by white parents as repugnant to the due process and equal protection clauses of the Fourteenth Amendment and to New York State law. Except for one case where the results were held to be arbitrary and capricious, the lawsuits

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(30 continued)

> school should have a prescribed ratio of Negro to white students reflecting the proportion for the district as a whole. To do this as an educational policy is within the broad discretionary powers of school authorities; absent a finding of a constitutional violation, however, that would not be within the authority of a federal court.

have been uniformly unsuccessful.[31] In Offerman v. Nitkowski, suit was brought in Federal District Court attacking as violative of the Fourteenth Amendment an order of the Commissioner of Education requiring the Buffalo School Board to remedy racial imbalance in the schools. Rejecting this argument, the court held that "...the Fourteenth Amendment, while prohibiting any form of invidious discrimination, does not bar cognizance of race in a proper effort to eliminate racial imbalance in a school system." 248 F. Supp. at 131. Similar suits by white parents challenging the constitutionality of desegregation efforts undertaken at the State and local level have like wise been unavailing in several other states.[32]

Moreover, in Bustop, Inc. v. Board of Education of the City of Los Angeles, 58 L. Ed 2d 88 (1978), Justice Rehnquist refused to stay implementation of a desegregation plan for Los Angeles County, California. That plan had been ordered by a State court judge pursuant to the California Constitution which, as interpreted by the Supreme Court of that State and in contrast to Federal law, makes no distinction between de jure

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31/ Balabin v. Rubin, 14 N.Y. 2d 727, 199 N.E. 2d 375, 250 N.Y.S. 2d 281 (Ct. App.), cert. denied 379 U.S. 881 (1964); Addabbo v. Donovan, 16 N.Y. 2d 619, 209 N.E. 2d 112, 261 N.Y.S. 2d 68 (Ct. App. 1965); Strippoli v. Bickal, 21 A.D. 2d 365, 209 N.E. 2d 123, 250 N.Y.S. 2d 969 (App. Div. 1964); Katalinic v. City of Syracuse, 22 A.D. 2d 1003, 44 Misc. 2d 734, 254 N.Y.S. 2d 960 (App. Div. 1964); Offerman v. Nitkowski, 248 F. Supp. 129 (E.D.N.Y. 1965).

32/ See, e.g., Morean v. Board of Education, 42 N.J. 237, 200 A. 2d 97 (1964); Tometz v. Board of Education, 39 Ill. 2d 593, 237 N.E. 2d 498 (1968); School Committee of Boston v. Board of Education, 352 Mass. 693, 227 N.E. 2d 729 (1967), appeal dismissed 398 U.S. 572 (1968); Citizens Against Mandatory Busing v. Brooks, 80 Wash. 2d 121, 492 P. 2d 536 (1972).

and *de facto* segregation but requires school officials to take "all reasonably feasible steps" to eliminate segregation whatever the cause. The Los Angeles plan will apparently affect some 60,000 pupils and require the busing of students from 36-66 miles for up to 1 1/2 hours. Bustop, Inc. claimed that the order was inconsistent with the Supreme Court's 1976 ruling in the *Dayton* case and that it "ignore[d] the federal rights of citizens... to be free from excessive pupil transportation that destroys fundamental rights of liberty and privacy."

In denying the stay application, Justice Rehnquist was "inclined to agree" that the remedial order went beyond that required by Federal law but noted that the California Constitution had been interpreted by the highest tribunal in that state "to require less of a showing on the part of plaintiffs who seek court-ordered busing than this Court has required of plaintiffs who seek similar relief under the United States Constitution." Distinguishing his recent action staying an order in the *Columbus* case, Justice Rehnquist observed that

> that case is of course different in that the only authority that a federal court has to order desegregation or busing in a local school district arises from the United States Constitution. But the same is not true of state courts. So far as this Court is concerned, they are free to interpret the Constitution of the State to impose more stringent restrictions on the operation of a local school board. 589 L. Ed 2d at 90.

Further rejecting Bustop's argument based on student and parental rights, Justice Rehnquist expressed "the gravest doubts that the Supreme Court of California was *required* by the United States Constitution to take the action that it has taken in this case," but had "little doubt that it was *permitted* by that Constitution to take such action." 58 L. Ed 2d at 91.

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LEGAL HISTORY OF METROPOLITAN SCHOOL DESEGREGATION

In the years since the Supreme Court's seminal decision in *Brown* v. *Board of Education*[1] the law of school desegregation has undergone a process of continuous evolution, both with regard to legal standards for proving unconstitutional segregation and the scope of appropriate remedies. *Brown* ruled that the Equal Protection Clause forbade State statutes that required or permitted, by local option, separate schools for black and white students. For the next two decades, all desegregation cases to reach the Supreme Court involved such "dual school systems," mainly in the South, with a long history of racial separation pursuant to explicit governmental policy. In these cases, the "State action" necessary to invoke equal protection safeguards was manifestly present; existing segregated conditions within a school district that had prior to *Brown* practiced segregation by statute were presumed to be unconstitutional "vestiges" of the former dual school system.[2]

During the same period, the nature of the obligation placed on school officials evolved from the mere cessation of overt racial assignment, the target of *Brown*, to elimination of the "effects" of the former dual system. In *Green* v. *County Board of Education*, the Court held school officials to an "affirmative duty" to abolish the "last vestiges" of a dual school system, including all "racially identifiable" schools.[3/] Schools could be racially identifiable by comparison with other schools in a geographical area if the racial composition of the student bodies or staffs or the quality of the physical facilities, curricula, or personnel differed significantly. Although there is no duty to make schools identical in all respects, there is a presumption against schools that diverge markedly from the norm defined by these criteria. Thus, the Court in *Swann* v. *Board of Education* held that such differences between schools in a former statutory dual system establishes a *prima facie* case that school officials are continuing to discriminate or that they have failed to remedy fully the effects of past discrimination.[4/]

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[1] 347 U.S. 483 (1954).

[2] *Swann* v. *Board of Education*, 402 U.S. 1 (1971); *Wright* v. *Council of City of Emporia*, 407 U.S. 451 (1972); *United States* v. *Scotland Neck Board of Education*, 407 U.S. 484 (1972).

Beginning in the early 1970's, as the judical focus shifted from school systems segregated by law at the time of *Brown* to systems in the urban North without a prior history of State sanctioned segregation, new doctrinal approaches became necessary. First, because the origins of "northern-style" segregation could not be traced to a prior regime of statutory dual schools, additional standards for determining the existence of forbidden "State action," or so-called "*de jure* segregation," had to be developed. Second, in many parts of the South, the remedial framework for systemwide or metropolitan desegregation was established long before *Brown* by a tradition of county-wide

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[3/] 391 U.S. 430, 438-9 (1968). In *Green*, the Court declared that "[s]chool boards. . . operating state compelled dual school systems [are] nevertheless charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination [is] eliminated root and branch." This affirmative duty requires the "school board today... to come forward with a plan that promises realisticially to work, and promises realistically to work now." See, also, *Alexander* v. *Holmes County Board*, 396 U.S. 19 (1969).

[4/] 402 U.S. 1, 25-27 (1971).

school systems. By contrast, the boundaries of northern school systems are frequently drawn along township or municipal rather than county lines, with metropolitan areas often encompassing many independent school districts. Further complicating the desegregation process is the fact that many inner city systems are predominantly black, while the suburban school districts are largely, often overwhelmingly white. In the face of this demographic reality, northern litigants have increasingly sought metropolitan solutions to segregation problems, either by consolidating school districts or by transferring students between city and suburban schools.

Six years ago, in Milliken v. Bradley,[5] the Supreme Court for the first time delineated the circumstances under which school district lines could be disregarded in formulating remedies for unconstitutionally segregated school systems. By a narrow five to four margin the Court reversed a lower court order requiring a metropolitan area plan for the Detroit schools, which were found to be unlawfully segregated. But in doing so the Court outlined when such a remedy might be appropriate. In essence, the majority held that a prerequisite for interdistrict relief was not only "a current condition of segregation resulting from intentional state action," but also a violation that was of an interdistrict character. Thus, in the Detroit case the scope of the remedy exceeded "the nature and extent of the unconstitutional violation," which was confined to Detroit.[6]

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[5] 418 U.S. 717 (1974).

[6] 418 U.S. at 744.

Since *Milliken*, both Federal and State courts have held interdistrict remedies proper in eight cases,[7] and the Supreme Court summarily affirmed the order in one of these.[8] In addition, the Supreme Court's decisions during its 1978-79 Term in *Columbus Board of Education* v. *Penick*[9] and *Dayton Board of Education* v. *Brinkman (Dayton II)*[10] may have significant implications for future development of the law in this area. Accordingly, the remainder of this section will examine metropolitan desegregation within the basic doctrinal framework established by Supreme Court rulings from *Swann* to *Columbus* and *Dayton*. Post-*Milliken* interdistrict cases will then be considered for the guidance they provide with respect to principles set forth in the Detroit case. Finally, an analysis of the patterns of violations justifying interdistrict or metropolitan relief in these cases will conclude the section.

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[7] *Evans* v. *Buchanan*, 393 F. Supp. 428 (D. Del.), *aff'd mem.*, 423 U.S. 963 (1975), on *remand* 416 F. Supp. 328 (D. Del. 1976), *aff d as modified* 555 F. 2d 373 (3d Cir. 1977), *cert. denied* 434 U.S. 880 (1977), *rehearing denied*, 434 U.S. 944 (1977), 447 F. Supp. 982 (D. Del.), *aff'd* 582 F. 2d 750 (1978), *cert. denied* 100 S. Ct. 1862 (1980); *United States* v. *Board of School Commissioners*, 419 F. Supp. 180 (S.D. Ind. 1975), *aff d* 541 F. 2d 121 (7th Cir. 1976), *vacated and remanded* 429 U.S. 1068 (1977), 573 F. 2d 400 (7th Cir. 1978), *cert. denied* 439 U.S. 824 (1978), *on remand* 456 F. Supp. 193 (S.D. Ind. 1978); *Newburg Area Council, Inc.* v. *Board of Education*, 510 F. 2d 1358 (6th Cir. 1974), *cert. denied* 421 U.S. 931 (1975), *unreported decision on remand*, *aff'd* 541 F. 2d 538 (6th Cir.), *cert. denied* 429 U.S. 1074 (1976); *United States* v. *Missouri*, 515 F. 2d 1365 (8th Cir.) (*en banc*), *cert. denied* 423 U.S. 951 (1975); *Berry* v. *School District*, 467 F. Supp. 721 (W.D. Mo. 1978) (ordering defendants to submit remedies for interdistrict violations); *School District* v. *Missouri*, 460 F. Supp. 421 (W.D. Mo. 1978) (refusing to dismiss plaintiff's suit for interdistrict relief on defendants' motion under *Fed. R. Civ. P.* 12(b)(6)), *appeal dismissed*, 592 F. 2d 493 (8th Cir. 1979); *Morrilton School Dist. No. 32* v. *United States*, 606 F. 2d 222 (8th Cir. 1979), *cert. denied* 48 U.S.L.W. 3535 (S. Ct. 2/19/80); *Tinsley* v. *Palo Alto Unified School District*, 91 Cal. App. 3d 871, 154 Cal. Rptr. 591 (1979) (avoided *Milliken* in upholding plaintiff's suit by predicating relief on State constitutional grounds).

[8] *Evans* v. *Buchanan*, 393 F. Supp. 428 (D. Del), *aff'd mem.*, 423 U.S. 963 (1975).

[9] 443 U.S. 449 (1979).

[10] 443 U.S. 526 (1979).

THE SUPREME COURT AND SCHOOL DESEGREGATION: FROM SWANN TO DAYTON II

In *Swann* v. *Board of Education*, the Court sought to define the scope of judicial authority to enforce school district compliance with the "affirmative" constitutional obligation imposed by *Green* and set out "with more particularity" the elements of an acceptable school desegregation plan. It was there confronted with a plan to desegregate the county school system in Charlotte-Mecklenburg, North Carolina which, as already observed, had an admitted past history of segregation by law.[11] The county board had argued, however, that the current segregated pattern of school attendance was not the result of deliberate segregation by race but was instead the product of racially segregated housing patterns. Since there were no longer statutorily mandated separate schools for black and white children nor other evidence of deliberate segregatory acts by school officials, there was, the board urged, no constitutional violation to be remedied. The schools were segregated, but only fortuitously, as a consequence of the imposition of a racially neutral, neighborhood school policy on a district with heavy residential segregation.

Nevertheless, the Court presumed that there was a causal connection between the school district's past admitted discrimination and the present pattern of segregated schools and held that the school board had not yet completely disestablished its dual school system and converted it to the "unitary, nonracial system of public education" dictated by *Green*. A crucial aspect of *Swann* was this recognition by the Court of an evidentiary presumption was not among the factors that motivated their actions" as regards the core city schools.[12] If the board's proof in this latter regard was not sufficiently persuasive, the court was required to order district-wide remedial relief.

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[11] The Charlotte-Mecklenburg school system was at the time of trial the forty-third largest in the nation, including the city of Charlotte and all of surrounding Mecklenburg County, an area of 550 square miles. The 107 schools served 84,000 pupils, 71 per cent of whom were white, and 29 per cent black. Two-thirds of those black students attended just 21 schools which were either totally or more than 99 per cent black as of June 1969. 402 U.S. at 7.

In Swann, the Supreme Court noted that there was a distinction between de jure (state enforced) and de facto (adventitiously caused) segregation, but it was not until Keyes that the Court actually spelled out the difference. Justice Brennan, writing for the Keyes majority, appeared to largely endorse the reasoning employed be many lower federal courts which had effectively expanded the concept of de jure segregation to include that fostered by intentional school board policies respecting school site location, school construction, student assignment, etc. In this regard, Justice Brennan emphasized that "the differentiating factor between de jure segregation and so-called de facto segregation. . . is purpose or intent to segregate."[13] Thus, the plaintiffs "must prove not only that segregated schooling exists but also that it was brought about by intentional state action."[14]

Although the Supreme Court did not expressly articulate the standard to be applied, the lower court in Keyes had indicated that "malicious or odious intent" was not necessary, finding rather that the actions of the Denver board were "taken with knowledge of the consequences, and consequences were not merely possible, they were substantially certain."[15] Among the factors relied upon by the Supreme Court as indicators of "purpose" or "intent" to segregate in Northeast Denver where deliberate segregative acts of pupil assignment to schools located in a non-white residential area of the city of Denver; the segregatory assignment of faculty and staff; the location of a

[12] 413 U.S. at 207.

[13] 413 U.S. at 208.

[14] 413 U.S. at 198.

[15] 303 F. Supp. 286.

school "with" conscious knowledge that it would be a segregated school;" and adoption of policies which "have the clear effect of earmarking schools according to their racial composition. . . ."[16/]

The majority indicated that a finding of deliberate segregation in a "meaningful portion" of the school district may, absent a highly unlikely showing to the contrary, constitute the entire system a dual school system. "Common sense dictates the conclusion that racially inspired school board actions have an impact beyond the particular schools that are subjects of those actions." For instance, the Court noted that assigning black students to one school "by structuring attendance zones or designing 'feeder' schools on the basis of race" would necessarily keep other nearby schools predominantly white, even though the white students were assigned on the basis of geographical proximity rather than race.[17/] Also, "the practice of building a school. . . to a certain size and in a certain location, 'with conscious knowledge that it would be a segregated school,' . . .has a substantial reciprocal effect on the racial composition of other nearby schools."[18/]

The Keyes Court also adverted to the theory suggested in Swann--that there may be causal relationship between past discrimination on the part of the school board and the present pattern of residential segregation. It found that various segregatory policies used by Denver school authorities tended to "earmark" schools as black or white, "and this in turn,

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[16/] 413 U.S. at 202.

[17/] 413 U.S. at 201.

[18/] 413 U.S. at 201-02.

together with the elements of student assignment and school construction, may have a profound reciprocal effect on the racial composition of residential neighborhoods within a metropolitan area, thereby causing further racial concentration within the schools."[19] Thus, one basis for finding sufficient *de jure* segregation to justify district-wide relief was the presumption that deliberate segregative policies in a "meaningful" or "substantial" part of the school system had a reciprocal effect on the remainder of the system. The second, somewhat related, basis derived from the Court's reasoning that "a finding of intentionally segregative school board actions in a meaningful portion of the school system... creates a presumption that other segregated schooling within the system is not adventitious. It established... a *prima facie* case of unlawful segregative design on the part of school authorities, and shifts to those authorities the burden of proving that other segregated schools within the system are not also the result of intentionally segregative actions."[20]

Swann and *Keyes*, therefore, differed in their allocation of the burden of proof in that in *Swann*, involving a jurisdiction formerly segregated by statute, a *prima facie* case of unconstitutional segregation was established ~~by the existence of racially identifiable schools. The burden was upon the~~ school board to overcome this *prima facie* case. In *Keyes*, on the other h[illegible] where there was no past history of segregation by law, the initial b[illegible] in his view, "purposeful, discriminatory use of housing or zoning laws" may serve as a basis for interdistrict remedial relief. "Were it to be shown, for example, that state officials had contributed to the separation of the races... by purposeful, racially discriminatory use of state housing or zoning laws, then a decree calling for transfer of pupils across districts lines or for restructuring district lines might be appropriate."[21/]

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[19] 413 U.S. at 202.

[20] 413 U.S. at 218.

The question of the duration of desegregation and the possibility of resegregation has been and remains another problem involved in the desegregation process, whether intra - or inter-district. The issue was addressed by the next case to reach the High Court, Pasadena Board of Education v. Spangler,[22/] which set limits on a school district's affirmative duty to desegregate where, once a constitutionally adequate plan has been adopted, resegregation occurs as a result of changing demographic patterns unrelated to any action by school officials. In Spangler, the Court struck down a provision in a 1970 decree that required the Pasadena School District to contain no school "with a majority of any minority students," which was to remain in effect indefinitely. Although the order had been compiled with during the first year it was in effect, in subsequent years normal changes in the residential patterns in Pasadena caused some of the schools to fall out of compliance with the order.

The Supreme Court held that the Federal equity power could not be used to remedy these changes and restore the initial racial balance because "these shifts were not attributed to any segregative action on the part of the defendants." Justice Rehnquist noted that the demographic trends in Pasadena mirrored statewide patterns and held that the situtation was governed by Swann, to wit.:

21/ 418 U.S. at 755 (Stewart, J., concurring).

22/ 427 U.S. 424 (1976).

that the findings failed to establish intentional segregation of sufficient magnitude to warrant the district-wide relief ordered. In a similar action on January 25, 1977, the Court vacated and remanded the Seventh Circuit ruling in Indianapolis which required the interdistrict busing of black students from the Indianapolis public schools to the surrounding suburban school districts.[23/] Again, the Supreme Court cited, without elaboration, its rulings in *Davis* and *Arlington Heights*.

Later that term the implications of the remand orders in Austin and Indianapolis were more fully explored by Justice Rehnquist in the course of his discussion of the findings required to support a systemwide desegregation plan for Dayton, Ohio.[24/] In Dayton the district court found a "cumulative violation" by the Dayton Board of Education based on the pervasive pattern of racially imbalanced schools (in 1973, 49 of 69 schools in the district had student enrollments 90 percent or more of one race), the use of optional attendance zones at three high schools, and the Board's action in rescinding earlier resolutions calling for racial and economic balance in the Dayton system. On the basis of these findings, the Sixth Circuit vacated a limited plan imposed by the district court--centering on the use of magnet schools, faculty reassignments, and voluntary student transfers--with directions that ~~the court instead impose a comprehensive district-wide remedy. It subsequently~~ affirmed a plan adopted by the district court to require each school in the system to have a student population within a range of 15 percent of the district as a whole. That plan would have required the busing of approximately 15,000 students.

[23/] *Board of School Commissioners of the City of Indianapolis* v. *Buckley*, 429 U.S. 1068 (1977).

[24/] *Dayton Board of Education* v. *Brinkman, (Dayton I)* 433 U.S. 406 (1977).

In an 8-0 decision, the Supreme Court held that the evidence failed to support the sweeping remedy approved by the court of appeals. Justice Rehnquist, writing for the Court, rejected the "cumulative violation" found by the district court and was also critical of the role assumed by the appellate court in shaping a desegregation plan for the Dayton schools. With regard to the finding of a "cumulative violation," Justice Rehnquist suggested that theory might be appropriate where there are "separate although relatively isolated instances of unconstitutional action...," but held that the elements cited by the district court did not amount to such separate violations. The existence of predominantly white or predominantly black schools within the district, standing alone, was not an equal protection violation "in the absence of a showing that this condition resulted from intentionally segregative actions on the part of the Board." Nor was cancellation of the earlier pro-integration resolutions unconstitutional in in the circumstances of this case because there was no showing that the Board had been under the obligation to adopt those measures in the first place. Finally, assuming that the optional attendance zones were discriminatory, only the high school districts would be affected, not the entire school system. Thus, in Justice Rehnquist's view, there was only weak support for the conclusion that a constitutional violation had occurred.

This faulty beginning was compounded, in Justice Rehnquist's view, by the role played by the court of appeals. Without reversing the district court's findings of fact or conclusions of law, the appellate tribunal simply substituted its judgment for that of the lower court because "it was vaguely dissatisfied with the limited character of the remedy that the district court had afforded plaintiffs" and instituted a far more sweeping one of its own. In this, the appeals court not only exceeded its appellate authority but the remedy it imposed was "entirely out of proportion to the constitutional violations found by the district court..." Even if the so-called "cumulative violation" were interpreted more favorably to those seeking to integrate the Dayton schools, there was no evidence to suggest that the plan approved on appeal was necessary to "eliminate all vestiges of state-imposed school segregation."

Because of what Justice Rehnquist termed the "confusion at various stages in this case... as to the applicable principles and appropriate relief", the case was remanded to the district court for making of more specific findings and, if necessary, the taking of additional evidence. In the critical passages of the opinion, Justice Rehnquist defined the task of the lower courts as follows:

> The duty of both the District Court and of the Court of Appeals in a case such as this, where mandatory segregation by law of the races in the schools has long since ceased, is to first determine whether there was any action in the conduct of the business of the school board which was intended to, and did in fact, discriminate against minority pupils, teachers or staff... All parties should be free to introduce such additional testimony and other evidence as the District Court may deem appropriate. If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, ~~must determine how much~~ incremental ~~effect these violations~~ had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a systemwide impact may there be a systemwide remedy. 25/

25/ 433 U.S. at 420.

In both *Columbus* and *Dayton II,*[26] the Sixth Circuit found that the school districts were *de jure* segregated at the time of *Brown* and that school officials thereafter had failed in their constitutional obligations to remedy these conditions. In addition, the appeals court in each case pointed to a variety of post-*Brown* practices—e.g. student and faculty assignments, school construction and expansion, the use of optional attendance zones, etc.—that had the "natural, probable, and foreseeable" effect of perpetuating segregation from that earlier date. Based on these findings, the Sixth Circuit concluded that the Columbus and Dayton systems were segregated on a systemwide basis and ordered desegregation plans requiring the busing of students throughout the districts.

The Supreme Court, by votes of seven to two and five to four, respectively, affirmed the systemwide busing plans for Columbus and Dayton. The Court rejected arguments by school officials that, because residential patterns unrelated to board policies were overwhelmingly segregated and would have produced segregated "neighborhood" schools regardless of any action of their part, their past misconduct had no "current segregative effect" that justified a systemwide remedy. Instead by finding that the violation, rooted in segregative policies that had ended in Dayton by 1962 and in Columbus by 1943, continued to the present by virtue of the boards' failure to remedy it, the Court lessened the plaintiffs' burden of proof. As Justice White wrote for the Court in the *Columbus* case, "[e]ach instance of a failure or refusal to fulfill this affirmative duty continues the violation of the Fourteenth Amendment. *Keyes* and its evidentiary presumptions were explicity affirmed, and the ruling in Dayton I was limited, as urged by the plaintiffs, to cases in which the threshold showing of segregation affecting a "substantial portion" of the district is insufficient to warrant the Keyes presumption of a systemwide violation.

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[26] *Columbus Board of Education* v. *Penick*, 443 U.S. 449 (1979); *Dayton Board of Education* v. *Brinkman*, 443 U.S. 526 (1979).

While Columbus and Dayton II eased plaintiffs' burden of showing causation between alleged official misconduct and resulting segregation in the schools, those decisions and another 1979 ruling[27a] may make it more difficult to prove that governmental officials acted with the level of intent necessary to establish a constitutional violation. In Dayton II, the Court refused to hold that mere foreseeability--proof that the racially segregative impact of decisions about school site location, construction, or methods of pupil assignment was predictable--was alone sufficient to justify a finding of intentional discrimination. However, it did emphasize that "proof of foreseeable consequences is one type of relevant evidence of racially discriminatory purpose, and it may itself show a failure to fulfill the duty to eradicate consequences of prior purposefully discriminatory conduct." While the precise showing that must be made to establish that the school board acted with a discriminatory purpose is not apparent from Columbus and Dayton II, it seems clear that the Court intends a rigorous scrutiny of plaintiffs' intent claims to establish that at least one of the board's motives in committing an alleged violative act was to discriminate against a minority group.

[27a] Personnel Administrator of Massachusetts v. Feeney, 442 U.S. 256 (1979) (rejecting the tort-law standard of intent, that one intends the reasonably foreseeable results of one's conduct, as inapplicable in the context of constitutionally based discrimination claims).

The effect of these recent High Court rulings appears to be that as in Keyes, proof of intentional segregation in a substantial portion of a school system will shift the burden of proof to school authorities to produce evidence of a nonracial justification for existing segregation. In the absence of such rebuttal, the school board may be required to implement a plan for systemwide relief, including busing, to desegregate the district as a whole. Moreover, if in 1954 when Brown was decided, segregation existed as a result of official action, and thereafter the board failed to desegregate, or actually aggravated these conditions, plaintiffs need only show the effect of these actions in order to obtain relief; purpose or intent to segregate need not be proven. Finally, only in cases where the violations are so irregular or isolated that they cannot support a presumption of systemwide discrimination must the courts make a formal determination of "incremental segregative effect" in formulating a remedy. Although these cases involved issues of violation and remedy for intradistrict school segregation, they may also be relevant to litigation seeking metropolitan relief where collective acts of discrimination within adjacent school districts are alleged to result in interdistrict segregation.

In the meantime, Justice Rehnquist permitted the former plan to remain in effect, subject to modifications by the district court after further proceedings.[28]

Although *Dayton I* purported to be a mere restatement of existing law, the ruling suggested a stricter application of the intent requirement in *Keyes* — with less reliance on evidentiary presumptions— and a more finely tuned remedial approach, directed to the elimination of segregated conditions traceable to particular acts of official misconduct. In *Columbus* and *Dayton II*, however, the Court reasserted its support of systemwide desegregation efforts by approving large-scale pupil transportation plans for the two Ohio cities. In marked contrast to its ruling three years earlier in *Dayton I*, the Court explicitly affirmed the *Keyes* presumptions and offered additional guidance as to the proof of segregative intent necessary to support a systemwide remedy.

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[28] Two days after *Dayton I* was decided, the Supreme Court in *School District of Omaha* v. *United States*, 433 U.S. 667 (1977) vacated a decision of the Eighth Circuit Court of Appeals which enforced an earlier ruling *(Omaha I)* finding *de jure* segregation on the basis of a "presumption of segregative intent" arising from acts and omissions of the Board, the "natural and foreseeable" consequences of which was to "bring about or maintain segregation." After *Washington* v. *Davis (supra)* the appellate court in *Omaha II* reaffirmed its decision in *Omaha I*, holding it consistent with *Davis*. It also approved a broad remedy devised by the district court which required the systemwide transportation of students. In vacating the judgment and remanding, the Supreme Court directed the Eighth Circuit to review its decision in light of *Davis*, *Arlington Heights*, and *Dayton I*. Although it was not altogether clear whether the Court's dissatisfaction was with the remedy or intent test applied by the Eighth Circuit, the appeals court assumed the former and in subsequent proceedings reaffirmed its findings of intentional discrimination while remanding the case to the district court for reconsideration of the remedial plan. *United States* v. *School District(Omaha III)*, 565 F. 2d 127 (8th Cir. 1977) *cert. denied* 434 U.S. 1064 (1978).

The Supreme Court's action in another case decided concurrently with Omaha, *Brennan* v. *Armstrong*, 433 U.S. 672 (1977), is also not free of ambiguity. Both lower courts in *Armstrong* adopted a "pattern and practice" approach to the question of liability. The court of appeals admitted, however, that there was "an unexplained hiatus between specific findings of fact and conclusory findings of segregative intent" and further stated that "arguably no individual act carried unmistakeable signs of racial purpose." 539 F. 2d 629, 636-7. Thus, the Supreme Court's remand may well have been based on the belief that the factual findings did not sufficiently demonstrate the school Board's discriminatory purpose.

> Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination is eliminated from the system. This does not mean that Federal courts are without power to deal with future problems, but in the absence of a showing that either school authorites or some other agency of the state had deliberately attempted to fix or alter demographic patterns to affect the composition of the schools, further intervention by a district court should not be necessary. [29]

As in *Milliken*, the Supreme Court concluded that the lower court order was designed to achieve integration rather than to eliminate the effects of past violations. Since the demographic shifts would have occurred absent any constitutional violation, their effects were beyond the remedial power of the courts.

Although the Supreme Court has not squarely faced the issue of inter-district relief for segregated schools since *Milliken*,[30] several of its subsequent rulings may have implications for litigation in this area. The Court's remand of two cases during its 1976-77 Term for reconsideration in light of Washington v. Davis[31] and Arlington Heights v. Metropolitan Housing Development Corp.[32] seemed to suggest that henceforth the Court would require more rigorous scrutiny of the intent behind a school board's actions and permit less reliance on evidentiary presumptions to support broad desegregation decrees.[33] In Austin Independent

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[29] 427 U.S. 436 (quoting Swann, 402 U.S. at 31-2).

[30] In another context, however, the Court has considered the propriety of a metropolitan remedy to desegregate public housing in the City of Chicago. *Hills* v. *Gautreaux*, 425 U.S. 284 (1976). The Chicago Housing Authority had located virtually all of its public housing projects, which were overwhelmingly black-occupied, in the black area of Chicago. Although the district court found the Housing Authority's discriminatory placement of public housing violative of the Fourteenth Amendment, it refused to grant plaintiffs' request for a remedy which extended into the suburbs. On appeal, the Seventh Circuit held that the "equitable factors which prevented metropolitan relief in *Milliken* v. *Bradley* [were] simply not present." The appeals court then held that any effective plan to remedy the racially discriminatory public housing system within Chicago would have to be on a suburban or metropolitan area basis. Although it specifically found that none of *Milliken's* conditions had been satisfied, the Supreme Court unanimously held that metropolitan relief might be permissible if the remedy did not interfere with or coerce surburban governments. In effect, the Court held that a remedy is not interdistrict when it does not "consolidate or in any way restructure local government units" or "displace the rights and powers [of] local governmental entities," despite the fact that the remedy may extend beyond the geographical boundaries of a subdivision. While *Gautreaux* opened the possibility of broad remedies involving federally-funded public housing, its coercion theory would appear to have little direct impact upon remedies granted against schools. Housing remedies may, however, change the racial proportions in a school district and, thereby, achieve gradual desegregation in the suburbs, without the necessity for busing.

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[31] 426 U.S. 229 (1976).

[32] 429 U.S. 252 (1977).

[33] Davis and Arlington Heights are significant in their holdings that, for purposes of analyzing the constitutionality of allegedly discriminatory official conduct, the purpose or intent behind the law or governmental action, and not its effect on racial minorities, is controlling. In Davis, an employment discrimination case, the Court found that the fact that blacks scored lower than whites on a racially neutral civil service exam did not in itself make application of the test by the governmental employer a violation of equal protection.

> ...we have not held that a law, neutral on its face and serving ends otherwise within the power of government to pursue, is invalid under the Equal Protection Clause simply because it may affect a greater proportion of one race than of another. Disporportionate impact is not irrevelant, but it is not the sole touchstone of an invidious racial discrimination forbidden by the constitution. 426 U.S. at 242.

In the course of that decision, the Court relied on the school desegregation cases for the basic proposition that the "invidious quality" of a law or other official action must trace ultimately to a "racially discriminatory purpose." "[O]ur cases have not embraced the notion that a law or other official act, without regard to whether it reflects a racially discriminatory purpose, is unconstitutional solely because it has a racially discriminatory impact." The Court applied the Davis rationale to an exclusionary zoning case in Arlington Heights, holding that the refusal of the village to rezone to permit the construction of a proposed low and moderate income housing project, despite the fact that the local zoning action impacted primarily on minority households, was not unconstitutional since no "discriminatory purpose or intent" had been proven. See, also, Personnel Administrator of Massachusetts v. Feeney 442 U.S. 256 (1979) (veterans' preference for State employment upheld even though it excluded women more often than men from civil service jobs).

School District v. United States, the Supreme Court vacated a Fifth Circuit order requiring extensive busing of students throughout the school district. That order was based in part on the appeals court's finding that the board's policy of assigning Mexican-American students to the schools closest to their homes had the "natural and foreseeable" result of segregating the schools because it was superimposed on an ethnically segregated housing pattern. It further found that the board had taken no affirmative action to avoid this consequence.

> At least in the Texas schools, where we have held that Mexican-American students are entitled to the same benefits of Brown as blacks, school authorities may not constitutionally use a neighborhood assignment policy that creates segregated schools in a district with ethnically segregated residential patterns. A segregated school system is the foreseeable and inevitable result of such an assignment policy. When this policy is used we may infer that school authorities have acted with segregative intent. [35]

The Supreme Court order was entered in a single sentence per curiam decision, Justices Brennan and Marshall dissenting, and did not elaborate the majority's reasoning. But Justice Powell's concurring opinion, in which he was joined by Justice Rehnquist and the Chief Justice, found the evidence failed to support the sweeping remedy ordered by the court of appeals. "[L]arge-scale busing is permissible only where the evidence supports a finding that the extent of the integration sought to be achieved by busing would have existed had the school authorities fulfilled their constitutional obligations in the past."[36] They further indicated that the appellate tribunal "may have erred by a readiness to impute to school officials a segregative intent far more pervasive than the evidence justified."[37] In order words, these three members of the Court suggested

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34/ 429 U.S. 990 (1976).

35/ 532 F.2d at 392.

36/ 429 U.S. at 995.

37/ 429 U.S. at 994.

that the findings failed to establish intentional segregation of sufficient magnitude to warrant the district-wide relief ordered. In a similar action on January 25, 1977, the Court vacated and remanded the Seventh Circuit ruling in Indianapolis which required the interdistrict busing of black students from the Indianapolis public schools to the surrounding suburban school districts.[38] Again, the Supreme Court cited, without elaboration, its rulings in *Davis* and *Arlington Heights.*

Later that term the implications of the remand orders in Austin and Indianapolis were more fully explored by Justice Rehnquist in the course of his discussion of the findings required to support a systemwide desegregation plan for Dayton, Ohio.[39] In Dayton the district court found a "cumulative violation" by the Dayton Board of Education based on the pervasive pattern of racially imbalanced schools (in 1973, 49 of 69 schools in the district had student enrollments 90 percent or more of one race), the use of optional attendance zones at three high schools, and the Board's action in rescinding earlier resolutions calling for racial and economic balance in the Dayton system. On the basis of these findings, the Sixth Circuit vacated a limited plan imposed by the district court—centering on the use of magnet schools, faculty reassignments, and voluntary student transfers—with directions that the court instead impose a comprehensive district-wide remedy. It subsequently affirmed a plan adopted by the district court to require each school in the system to have a student population within a range of 15 percent of the district as a whole. That plan would have required the busing of approximately 15,000 students.

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[38] *Board of School Commissioners of the City of Indianapolis* v. *Buckley*, 429 U.S. 1068 (1977).

[39] *Dayton Board of Education* v. *Brinkman*, *(Dayton I)* 433 U.S. 406 (1977).

In an 8-0 decision, the Supreme Court held that the evidence failed to support the sweeping remedy approved by the court of appeals. Justice Rehnquist, writing for the Court, rejected the "cumulative violation" found by the district court and was also critical of the role assumed by the appellate court in shaping a desegregation plan for the Dayton schools. With regard to the finding of a "cumulative violation," Justice Rehnquist suggested that theory might be appropriate where there are "separate although relatively isolated instances of unconstitutional action...," but held that the elements cited by the district court did not amount to such separate violations. The existence of predominantly white or predominantly black schools within the district, standing alone, was not an equal protection violation "in the absence of a showing that this condition resulted from intentionally segregative actions on the part of the Board." Nor was cancellation of the earlier pro-integration resolutions unconstitutional in the circumstances of this case because there was no showing that the Board had been under the obligation to adopt those measures in the first place. Finally, assuming that the optional attendance zones were discriminatory, only the high school districts would be affected, not the entire school system. Thus, in Justice Rehnquist's view, there was only weak support for the conclusion that a constitutional violation had occurred.

This faulty beginning was compounded, in Justice Rehnquist's view, by the role played by the court of appeals. Without reversing the district court's findings of fact or conclusions of law, the appellate tribunal simply substituted its judgment for that of the lower court because "it was vaguely dissatisfied with the limited character of the remedy that the district court had afforded plaintiffs" and instituted a far more sweeping one of its own. In this, the appeals court not only exceeded its appellate authority but the remedy it imposed was "entirely out of proportion to the constitutional violations found by the district court..." Even if the so-called "cumulative violation" were interpreted more favorably to those seeking to integrate the Dayton schools, there was no evidence to suggest that the plan approved on appeal was necessary to "eliminate all vestiges of state-imposed school segregation."

Because of what Justice Rehnquist termed the "confusion at various stages in this case... as to the applicable principles and appropriate relief", the case was remanded to the district court for making of more specific findings and, if necessary, the taking of additional evidence. In the critical passages of the opinion, Justice Rehnquist defined the task of the lower courts as follows:

> The duty of both the District Court and of the
> Court of Appeals in a case such as this, where mandatory
> segregation by law of the races in the schools has long
> since ceased, is to first determine whether there was
> any action in the conduct of the business of the school
> board which was intended to, and did in fact, discriminate
> against minority pupils, teachers or staff... All parties
> should be free to introduce such additional testimony and
> other evidence as the District Court may deem appropriate.
> If such violations are found, the District Court in the
> first instance, subject to review by the Court of Appeals,
> ~~must determine how much incremental effect these violations~~
> had on the racial distribution of the Dayton school popu-
> lation as presently constituted, when that distribution is
> compared to what it would have been in the absence of such
> constitutional violations. The remedy must be designed to
> redress that difference, and only if there has been a system-
> wide impact may there be a systemwide remedy. 40/

40/ 433 U.S. at 420.

In the meantime, Justice Rehnquist permitted the former plan to remain in effect, subject to modifications by the district court after further proceedings.[41]

Although *Dayton I* purported to be a mere restatement of existing law, the ruling suggested a stricter application of the intent requirement in *Keyes* -- with less reliance on evidentiary presumptions-- and a more finely tuned remedial approach, directed to the elimination of segregated conditions traceable to particular acts of official misconduct. In *Columbus* and *Dayton II*, however, the Court reasserted its support of systemwide desegregation efforts by approving large-scale pupil transportation plans for the two Ohio cities. In marked contrast to its ruling three years earlier in *Dayton I*, the Court explicitly affirmed the *Keyes* presumptions and offered additional guidance as to the proof of segregative intent necessary to support a systemwide remedy.

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The Supreme Court's action in another case decided concurrently with Omaha, *Brennan* v. *Armstrong*, 433 U.S. 672 (1977), is also not free of ambiguity. Both lower courts in *Armstrong* adopted a "pattern and practice" approach to the question of liability. The court of appeals admitted, however, that there was "an unexplained hiatus between specific findings of fact and conclusory findings of segregative intent" and further stated that "arguably no individual act carried unmistakeable signs of racial purpose." 539 F. 2d 629, 636-7. Thus, the Supreme Court's remand may well have been based on the belief that the factual findings did not sufficiently demonstrate the school board's discriminatory purpose.

In both Columbus and Dayton II,[42] the Sixth Circuit found that the school districts were de jure segregated at the time of Brown and that school officials thereafter had failed in their constitutional obligations to remedy these conditions. In addition, the appeals court in each case pointed to a variety of post-Brown practices—e.g. student and faculty assignments, school construction and expansion, the use of optional attendance zones, etc.—that had the "natural, probable, and foreseeable" effect of perpetuating segregation from that earlier date. Based on these findings, the Sixth Circuit concluded that the Columbus and Dayton systems were segregated on a systemwide basis and ordered desegregation plans requiring the busing of students throughout the districts.

The Supreme Court, by votes of seven to two and five to four, respectively, affirmed the systemwide busing plans for Columbus and Dayton. The Court rejected arguments by school officials that, because residential patterns unrelated to board policies were overwhelmingly segregated and would have produced segregated "neighborhood" schools regardless of any action of their part, their past misconduct had no "current segregative effect" that justified a systemwide remedy. Instead by finding that the violation, rooted in segregative policies that had ended in Dayton by 1962 and in Columbus by 1943, continued to the present by virtue of the boards' failure to remedy it, the Court lessened the plaintiffs' burden of proof. As Justice White wrote for the Court in the Columbus case, "[e]ach instance of a failure or refusal to fulfill this affirmative duty continues the violation of the Fourteenth Amendment. Keyes and its evidentiary presumptions were explicity affirmed, and the ruling in Dayton I was limited, as urged by the plaintiffs, to cases in which the threshold showing of segregation affecting a "substantial portion" of the district is insufficient to warrant the Keyes presumption of a systemwide violation.

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[42] Columbus Board of Education v. Penick, 443 U.S. 449 (1979); Dayton Board of Education v. Brinkman, 443 U.S. 526 (1979).

While Columbus and Dayton II eased plaintiffs' burden of showing causation between alleged official misconduct and resulting segregation in the schools, those decisions and another 1979 ruling[43] may make it more difficult to prove that governmental officials acted with the level of intent necessary to establish a constitutional violation. In Dayton II, the Court refused to hold that mere foreseeability--proof that the racially segregative impact of decisions about school site location, construction, or methods of pupil assignment was predictable--was alone sufficient to justify a finding of intentional discrimination. However, it did emphasize that "proof of foreseeable consequences is one type of relevant evidence of racially discriminatory purpose, and it may itself show a failure to fulfill the duty to eradicate consequences of prior purposefully discriminatory conduct." While the precise showing that must be made to establish that the school board acted with a discriminatory purpose is not apparent from Columbus and Dayton II, it seems clear that the Court intends a rigorous scrutiny of plaintiffs' intent claims to establish that at least one of the board's motives in committing an alleged violative act was to discriminate against a minority group.

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The effect of these recent High Court rulings appears to be that as in Keyes, proof of intentional segregation in a substantial portion of a school system will shift the burden of proof to school authorities to produce evidence of a nonracial justification for existing segregation. In the absence of such rebuttal, the school board may be required to implement a plan for systemwide relief, including busing, to desegregate the district as a whole. Moreover, if in 1954 when Brown was decided, segregation existed as a result of official action, and thereafter the board failed to desegregate, or actually aggravated these conditions, plaintiffs need only show the effect of these actions in order to obtain relief; purpose or intent to segregate need not be proven. Finally, only in cases where the violations are so irregular or isolated that they cannot support a presumption of systemwide discrimination must the courts make a formal determination of "incremental segregative effect" in formulating a remedy. Although these cases involved issues of violation and remedy for intradistrict school segregation, they may also be relevant to litigation seeking metropolitan relief where collective acts of discrimination within adjacent school districts are alleged to result in interdistrict segregation.

Post-Milliken Cases Involving Interdistrict or Metropolitan School Desegregation Remedies

Indianapolis, Indiana

The Indianapolis litigation began in the 1960's as a traditional intradistrict desegregation suit. It evolved over nearly two decades to a metropolitan-wide case, eventually involving eight suburban school districts, several State officials, and the Housing Authority of the City of Indianapolis (HACI). The case was among the first after Milliken which dealt with the limitations imposed, and the possibilities left open, by that decision for metropolitan relief.

In its first ruling following Milliken, the Seventh Circuit reversed in part an interdistrict remedy in United States v. Indianapolis Board of School Commissioners. 44/ The evidence initially presented in the district court was very similar to that in the Detroit case. Tracing the long history of racial segregation in the Indianapolis Public Schools (IPS), the court found that the system was de jure segregated as a result of the board's gerrymandering of attendance zones, segregation of faculty, use of optional attendance zones, discriminatory school construction, site selection, and feeder patterns. 45/ Thereafter, in 1971, the district court permitted the Buckley plaintiffs, representing a class of black school children, to enter the case as intervenors and ordered the addition, as defendants, of the State of Indiana and 10 suburban school districts, both within and outside of Marion County, to consider the appropriateness of a metropolitan remedy.

Although numerous de jure violations, as defined in Keyes, were proven in the city school district, there was no showing that they had contributed to

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44/ 503 F. 2d 68 (7th Cir. 1974), rev'g 368 F. Supp. 1191 (S.D. Ind. 1973) cert. denied 421 U.S. 929 (1975).

45/ 332 F. Supp. 655 (S.D. Ind. 1971), aff'd, 474 F. 2d 81 (7th Cir. 1973), cert. denied, 413 U.S. 920 (1973).

interdistrict segregation. Nor was there evidence that the suburban districts had committed any acts of de jure segregation within their own borders. The district court declined to rule, initially, on the intervenors' contention that the "Uni-Gov" Act, enacted by the State Legislature in 1969 to permit a consolidation of the city government with that of Marion County, had the effect of perpetuating segregation by excluding school districts from the merger of governmental functions. 46/ At the end of a second trial, however, the court held that the discriminatory acts of the Indianapolis board could be imputed to the State of Indiana, and found that the State Board of Education and other State agencies had, by acts of "commission and omission," practiced de jure segregation. The court weighed possible desegregation remedies and concluded that meaningful desegregation in Indianapolis could not be achieved by a remedy limited to the city schools because it would accelerate "white flight" to the suburbs. 47/

The Seventh Circuit reversed and remanded the case one month after the Supreme Court decision in Milliken. The court of appeals held that the district court order was invalid to the extent that it applied to school districts outside

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46/ The "Uni-Gov" Act, and companion legislation passed by the Indiana Legislature in 1969, carved an exception out of a 38 year-old law on local government consolidations so that Indianapolis could merge with its surrounding suburbs in Marion County for all major purposes except school districting. As a result of this merger, Uni-Gov succeeded to most of the functions of the city and county governments and of numerous special service districts. Under Indiana law prior to 1969, the consolidation of the city and county functions would automatically have resulted in concommitant expansion of the IPS. But 16 days before final passage of Uni-Gov, the legislature repealed the prior law as applied to cities of the first class, of which Indianapolis was only one in the State, with the effect of separating for the first time the boundaries of IPS and the City of Indianapolis. Accordingly, the IPS could thereafter enlarge its territory only by agreement with the losing district, or by annexation. Both were subject to "remonstrance" and the law further provided that any annexations not yet effective were, in the district court's phrase, "cancelled by legislative fiat." Thus, a metropolitan government for all Marion County was created while the school systems of the city and county remained intact.

47/ 368 F. Supp. 1191, 1198 (S.D. Ind. 1973).

of Marion County, because Milliken required that acts of de jure segregation with interdistrict effects must be found before an interdistrict remedy can be ordered. Passage of the Uni-Gov Act provided a possible basis for such a finding, but the suburbs outside Marion County were not included in Uni-Gov and so were not affected by the Uni-Gov Act's exclusion of school district consolidation. As to the school districts within Marion County, the appeals court vacated and remanded for further proceedings to "determine whether the establishment of Uni-Gov boundaries without a like re-establishment of the IPS boundaries warrants an interdistrict remedy within Uni-Gov in accordance with Milliken." 48/

On remand, the district court found that Uni-Gov's exclusion of school district consolidation was a violation of the Equal Protection Clause. 49/ Further, this violation had the requisite interdistrict segregative effect to trigger an interdistrict remedy under Milliken, because Marion County would have had a single school system but for the exclusion of school district consolidation from Uni-Gov. In addition, the court found that the suburban Marion County governments:

> . . . have resisted school consolidation, they have resisted civil annexation so long as civil annexation carried school annexation with it, they ceased resisting civil annexation only when the Uni-Gov Act made it clear that the schools would not be involved. Suburban Marion County has resisted the erection of public housing projects outside IPS territory, suburban Marion County officials have refused to cooperate with HUD on the location of such projects, and the customs and usages of both the officials and inhabitants of such areas have been to discourage blacks from seeking to purchase or rent homes therein, all as shown in detail in previous opinions of this Court. 50/

The district court also held that HACI, which had jurisdiction five miles beyond the city limits, had perpetuated the segregation of blacks in the IPS territory.

48/ 503 F. 2d 68, 80 (7th Cir. 1974), cert. denied 421 U.S. 929 (1975).

49/ 419 F. Supp. 180 (S.D. Ind. 1975).

50/ 419 F. Supp. at 182-83.

The court therefore ordered an interdistrict remedy which included an injunction prohibiting HACI from further construction of public housing within the city. 51/

The Seventh Circuit affirmed both with respect to Uni-Gov and the district court findings of public housing violations. In regard to the former, the appeals court stated that "[t]he record fails to show any compelling State interest that would have justified the failure to include IPS in the Uni-Gov legislation." Admitting that there were legitimate considerations of school system size, the loss of citizen participation, and increased taxes for excluding schools from Uni-Gov, the court nevertheless stated that "[t]hese considerations, although not racially motivated, cannot justify legislation that has an obvious racial segregative impact." As to housing, the court found that all public housing projects for families, in which 98 percent of the residents were black, were restricted to the inner city of Indianapolis. The suburbs resisted building any public housing outside the city, and this affected the disparate racial composition of the schools in the city and suburban area. 52/

51/ Pending the outcome of appeals, the district court in an unreported memorandum of decision on August 1, 1975 ordered limited interdistrict relief requiring the transfer of black students from IPS grades one through nine in such numbers that each transferee suburban school would have a 15 percent enrollment. The suburban school defendants were ordered to accept the transfers for the 1975-76 school year and each year thereafter. The decision indicated that the order would require the transfer of 6,533 students in grades one through nine from IPS to suburban schools for the fall of 1975, ~~with the number increasing over the~~ next four years, as high school students were included, until approximately 9,525 black students would be transferred to the suburban school districts. However, this initial order was never implemented as the defendant schools on August 22, 1975 sought and obtained a stay of the order from the Seventh Circuit Court of Appeals. Thereafter, on August 20, 1976, Justice Stevens further delayed implementation of interdistrict desegregation of Marion County schools by continuing the stay pending review by the U.S. Supreme Court. Metropolitan School District of Perry Township v. Buckley, No 76-212 (U.S., August 20, 1976)

52/ On the issue of the housing remedy, the court of appeals stated: "It is obvious that there is a close relationship between the racial balance in housing and the racial balance in schools. . . . The record supports [the lower court's] findings and clearly shows a 'purposeful, racially discriminatory use of State housing.' Milliken v. Bradley . . . (Stewart, J., concurring) . . . Accordingly, the district court did not abuse its discretion in enjoining the Housing Authority from building additional projects within IPS." 541 F 2d. 1222-23.

The dissenting judge on the Seventh Circuit panel, Judge Tone, objected that the majority failed to properly apply Washington v. Davis which, he asserted, precluded a finding of constitutional violation based solely on the disproportionate racial impact of otherwise neutral State action. He took issue with the district court's findings of racial discrimination in the exclusion of school district consolidation from Uni-Gov and in HACI's building low-income housing projects only in IPS territory. Indicating possible agreement, the Supreme Court, as noted above, vacated and remanded the appeals court ruling for reconsideration in Davis and Arlington Heights, without an explanatory opinion. [53]

On remand, the court of appeals reaffirmed that the passage of Uni-Gov and its companion legislation met the requirements of Milliken and could therefore provide a predicate for a metropolitan remedy if the district court found that the Indiana legislature acted with a racially discriminatory intent or purpose. [54] In this regard, the court adopted an "objective" standard, inferring a forbidden purpose or intent from acts of the legislature having "natural and forseeable" segregative consequences. The district court was directed, therefore, to make additional findings as to the intent of the legislature in enacting Uni-Gov and to consider, in addition, whether HACI and county planning authorities "acted with an invidious purpose in limiting the construction of public housing to IPS." [55]

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[53] Board of School Commissioners v. Buckley, 429 U.S. 1068 (1977).

[54] 573 F. 2d 400 (7th. Cir. 1978).

[55] 573 F. 2d at 414. With respect to the alleged housing violations, the appeals court stated that "an interdistrict desegregation remedy is appropriate if the following circumstances are shown to exist (given the fact that there is a vast racial disparity between IPS and the surrounding school districts within the 'new' City of Indianapolis: (1) that discriminatory practices have caused segregative residential housing patterns and population shifts; (2) that State action, at whatever level, by either direct or indirect action, initiated, supported, or

(continued)

In its latest ruling to date, the district court made the specific findings required by the Seventh Circuit and reinstated its interim order of August 1, 1975 to apply to the 1978-79 and subsequent school years.[56] As a preliminary matter, the court reviewed the historical record and found that until the 1950's, blacks had been subjected to a regime of segregated treatment in regard to housing, education, and other public facilities within the State. Unlike most States in the north and west, Indiana had until 1949 practiced segregation by act of the State legislature, just as was true in the southern and border States prior to *Brown*. More importantly, however, the legislative history of the Uni-Gov Act disclosed active involvement of city and county officials at each stage of the proceedings, with the exemption of IPS motivated by expressed public opposition to inclusion of schools, rather than any legitimate educational or governmental reason. Accordingly, it was "perfectly obvious" to the court that the legislature's actions:

> . . . were done, at least in part, with the racially discriminatory intent and purpose of confining black students in the IPS school system to the 1969 boundaries of that system, thereby perpetuating the segregated white schools in suburban Marion County.[57]

Similarly, the district court reasserted that HACI had the authority under State law to build housing projects in adjacent suburban areas within five miles of the

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(continued) contributed to these practices and the resulting housing patterns and population shifts; and (3) that although the State action need not be the sole cause of these effects, it must have had a significant rather than a *de minimus* effect. Finally, an interdistrict remedy may be appropriate even though the State discriminatory housing practices have ceased if it is shown that prior discriminatory practices have a continuing segregative effect on housing patterns (and, in turn, on school attendance patterns) within the Indianapolis metropolitan area." 573 F. 2d at 409.

[56] 456 F. Supp. 183 (S.D. Ind. 1978). See note 95 (*supra*).

[57] 456 F. Supp. 188.

city limits, and that its failure to do so was motivated by a desire to confine blacks to the inner city.

> Against this backdrop of racial discrimination, can it be said to be a mere benign coincidence that HACI and the Commission located all public housing projects within IPS boundaries? This court thinks not and specifically holds that the actions of such official bodies in locating such projects within IPS, as well as the opposition of the suburban governments to the location of public housing within their borders, were racially motivated with the invidious purpose to keep blacks within pre-Uni-Gov Indianapolis and IPS, and to keep the territory of the added suburban defendants segregated for the use of whites only. The Court of Appeals has already agreed that the record shows a 'purposeful, racially discriminatory use of State housing. . .' [58]

In addition to reinstating its original 1975 order requiring "one-way" transfers from IPS to the suburban districts, the district court required the State to fund a comprehensive in-service training program for teachers and staff of the receiving suburban schools.

Wilmington, Delaware

Besides the Indianapolis case, perhaps the most widely publicized litigation since 1974 involving a metropolitan desegregation remedy is the Wilmington case. Proceedings to desegregate the Wilmington school system date back to the 1953 ruling in *Gebhart* v. *Belton*, [59] which, together with cases from other States that were segregated by law, formed the basis of the Supreme Court's historic ruling in *Brown* v. *Board of Education*. Another suit, *Evans* v. *Buchanan*, was filed in 1957 charging failure to dismantle the dual school system in compliance with the *Brown* decisions. Subsequently, in the course of that litigation, spanning more than two decades, the city of Wilmington entered the case as a plaintiff, and suburban New Castle County districts were joined with the State as defendants.

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[58] 456 F. Supp. at 189.

[59] 33 Del. 144 (1952).

Following the Supreme Court ruling in Milliken, the Evans court ordered the joinder of the suburban school districts for consideration of evidence supporting an interdistrict remedy. 60 / Significant in the district court's view was the pattern of historical interdependence between the city and county school systems. For many years, the only high school in the area that accepted black students was located in Wilmington and blacks in the county were required to transfer to the city school. In addition, before Brown suburban students of both races had, for a variety of reasons, been transferred across district lines to Wilmington, and in recent years, the State had subsidized interdistrict transportation of students to private and parochial schools. The effect of these early line crossings was not fully explained by the court. But it did note that the concentration of predominantly white private and parochial schools in suburban New Castle County made it likely that the current subsidized transfers enabled white students to flee the Wilmington district, and thereby "undoubtedly served to augment the racial disparity between Wilmington and the suburban public school population." 61/ Furthermore, after Brown abolished the State's former statutory dual school system, the district court found that "white flight" caused by the use of optional attendance zones in the Wilmington district may likewise "have affected the relative racial balance in housing and schools in Wilmington and the suburbs." 62 / Whether or not racial motivation could be inferred from these causal effects was not considered by the court, however.

As in the case of Indianapolis, the Evans court also found that governmental housing policies had resulted "to a significant degree [in] the increasing

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60 / 393 F. Supp. 428 (D. Del. 1975).

61 / 393 F. Supp. at 437.

62 / 393 F. Supp. at 436.

disparity in residential and school populations between Wilmington and its suburbs in the past two decades." 63/ The court pointed to the discriminatory effects of official housing policies in the following areas as a factor contributing to interdistrict segregation of students: FHA mortage policies; enforcement of racially-restrictive covenants; publication of a discriminatory manual by the State real estate commission; concentration of public housing in the city even though the Wilmington Housing Authority had jurisidiction to site units in part of the surrounding county; and the failure of the county housing authority to build any units since its creation in 1972. "The specific effect of these policies was to restrict the availability of private and public housing to blacks in suburban New Castle County at a time when housing became increasingly available to them in Wilmington." 64/

The most critical factor in the court's analysis, however, related to the segregative effects of the Educational Advancement Act of 1968, a Delaware school reorganization statute, which explicitly excluded the Wilmington District from a general reorganization of Delaware school districts. Although the district court concluded that the provisions excluding Wilmington district from school reorganization were not purposefully, racially discriminatory, this did not end its inquiry. The court noted that "statutes that do not explicitly deal with race but have a pronounced racial effect, . . . can also establish suspect racial classifications." 65/ It further stated that "where a statute, either explicitly or effectively, makes the goals of a racial minority more difficult to achieve than

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63/ 393 F. Supp. at 438.

64/ Ibid.

65/ 393 F. Supp. at 441.

other related governmental interests, the statute embodies a suspect racial classification and requires a particularly strong justification." 66/

The court therefore held that the Educational Advancement Act, although racially neutral on its face, "had a significant racial impact on the policies of the State Board of Education," and thereby constituted an "interdistrict violation" under Milliken. In effect, the statute prevented a predominantly black school district from being reorganized into a predominantly white school district while other districts within the State were able to consolidate. Neither the State's asserted interest in preserving an historic school district boundary, nor promotion of administrative efficiency by maintaining school districts with relatively small enrollments, could justify the exclusion of Wilmington where about half of all black students in Delaware live and unremedied violations--racially identifiable schools persisting in a system formerly segregated by law--remained. On this basis, the district court concluded that the General Assembly had, in contravention of Milliken, "contributed to the separation of races by redrawing school district lines," and ordered the preparation of Wilmington-only and interdistrict plans. The Supreme Court affirmed this decision without issuing an opinion. 67/

In May 1976, the district court ordered the adoption of an interdistrict plan involving 11 suburban school districts. 68 / This decision was affirmed by the Third Circuit Court of Appeals, and the State Board of Education was ordered to submit a plan. 69/ After a series of delays and the failure to produce an

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66 / 393 F. Supp. at 441.

67 / 423 U.S. 963 (1975).

68 / 416 F. Supp. 328 (D. Del. 1976).

69 / 555 F. 2d 373 (3d Cir. 1977).

acceptable plan, implementation was postponed until September 1978. The Supreme Court refused to review this decision, clearing the way for implementation of the plan approved by District Judge Murray M. Schwartz on January 9, 1978. 70 /

The district court plan employed a "9-3" approach involving all students in the desegregation area while insuring the use of Wilmington schools for the full-grade span, including at least one of the city high schools. Basically, the plan required use of three-year consecutive grade reassignments and busing for students living in predominantly white suburban districts, and nine-year reassignments for students in the predominantly black Wilmington district. In addition, the court's detailed remedial order required the State to provide money for a variety of educational programs to overcome the effects of segregation and to prevent resegregation. 71/ Also necessitated by the State legislature's inaction,

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70 / 434 U.S. 880 (1977). Judge Schwartz previously rejected a "10-2" grade-center approach (with 2 grades in Wilmington and 10 grades in the suburbs) developed by the New Castle County Planning Board of Education that would have left white students in their neighborhood schools for 10 years and black students for 2, with Wilmington schools never used for primary grades or senior high school, despite a location of Wilmington high school that was "ideal" for desegregation purposes. The court found that the board's plan deferred to sentiment against busing younger students, but was apparently insensitive to busing younger black students. While Judge Schwartz found some disproportionate racial burden unavoidable because of the smaller capacity of schools that were then predominantly black, he said that the burden should not be excessive where a practical alternative exists.

Also rejected was a plan proposed by the State Board of Education dubbed "reverse volunteerism" whereby every Wilmington black student would be reassigned to existing suburban districts with the absolute right to transfer back to the Wilmington district. This approach was unacceptable because it "carried with it the tacit assumption that only--and that all--black students benefit from transferring to a white environment, and not vice versa," and because it was "totally ineffective" as a remedy for an interdistrict violation of the nature and extent found by the court in this case.

71 / Included in this portion of the decree were in-service training of administrators, faculty, and other staff; special programs for reading and communication skills that do not employ resegregative practices; curriculum and materials free of bias and reflecting cultural pluralism; effective, nondiscriminatory counseling to prevent resegregation and to promote nondiscriminatory offering of vocational training and college preparatory programs; nondiscriminatory policy on new school construction, additions, and closings; human relations programs for students and teachers; a nondiscriminatory disciplinary code, procedures, and practices; and the reassignment of staff to eliminate racial identifiability of faculties.

the district court "with deep seated reluctance" confronted the difficulties arising from the widely disparate local tax rates in the 11 school districts that were consolidated for purposes of desegregation. Faced with "imminent peril" if nothing were done, the court set a maximum rate for the reorganized system within the range of rates previously existing in the separate districts, leaving the actual rate for determination by the new school board. The court further noted, however, that "the Delaware legislature may raise or lower the tax authorization established here" provided that it does not imperil the desegregation process. 72 / Finally, the court declined to set up a mechanism for monitoring implementation but retained jurisdiction of the case until the system is deemed completely unitary, as demonstrated over a reasonable period of time. 73 /

On a final appeal, the Third Circuit affirmed the plan for student reassignment and ancillary relief adopted by the district court and that court's rejection of alternative plans proposed by State and county officials. 74 / In reevaluating the extent and continuing impact of the interdistrict violation previously found in Wilimington and New Castle County, the appeals court ruled that

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72 / The district court order conferred on the reconstituted county board the authority to establish, levy and collect taxes for the current operating expenses up to a maximum authorized rate of $1.91 per $100 of assessed property valuation. The new board was also permitted to set a tax rate of up to $.32 for tuition, debt service, and minor capital improvements. The board established a tax rate for current operating expenses of $1.68, within the confines of the court's order, but the Delaware legislature thereafter passed a law directing the State Board of Education to establish a tax rate for the consolidated district, which was eventually set at $1.585, or 9-1/2 cents lower than the county board rate. The district court later denied the State Board's application for an injunction against enforcement of the county board rate because the court found that the legislature's action provided "a taxation scheme likely to frustrate or imperil the desegregation process in the single school district." 455 F. Supp. 692, 695.

73/ 447 F. Supp. 982 (D. Del. 1978).

74/ 582 F. 2d 750 (3d Cir. 1978), cert. denied 48 U.S.L.W. 3097 (S. Ct. 8/21/79).

the plan satisfied the remedial duty imposed by *Swann* and *Milliken* and conformed to the "incremental segregative effect" standard of *Dayton I*.

> That the 'condition that offends the Constitution' was found to be interdistrict in nature and extending throughout the 11-district area required that the remedy be congruent with the affected geographic area. Given the pervasive nature of the condition and the extensive area implicated by the findings of the three-judge court, the court fashioned a remedy that was prima facie reasonable, to-wit, a plan that sought to root out segregative effects in the interdistrict area, a plan designed 'to extirpate the *de jure* segregation and dual school systems in Northern New Castle County, . . . and to restore the school system to the status it would have enjoyed but for the constitutional violations'. In our view, once this showing was made, the burden passed to the defendant-appellants to demonstrate by evidence and testimony that the proffered plan was 'arbitrary, fanciful, or unreasonable,' by specifying in what respects the reach of the plan exceeded the grasp of the conditions created by constitutional violations. The defendant-appellants failed to meet this burden. 75/

However, the appeals court vacated the district court order of May 5, 1978 which had refused to enjoin the county board from enforcing a tax rate for the consolidated school system in excess of that established by the State board pursuant to the Act of the State legislature. 76/ In effect, the Third Circuit concluded that the district court had failed to accord "the requisite deference to which legislative judgment in the field of taxation are entitled." 77/ The district court was

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75/ 582 F. 2d at 766. The appeals court found the defendants' arguments that the plan exceeded the remedial limits imposed by *Dayton I* inappropriate for three other reasons. First, it found the *Dayton I* claims a "belated attempt" to relitigate an issue already conclusively resolved by prior proceedings in the case, including the Supreme Court's affirmance of the finding of an interdistrict violation. In addition, *Dayton I* was distinguishable in that the systemwide remedy in that case was based on three "relatively isolated" violations of "questionable validity," whereas the record in Wilmington disclosed "pervasive *de jure* interdistrict segregation" throughout the desegregation area. Finally, unlike *Dayton I*, these "firmly established constitutional violations" had the effect of perpetuating segregation in a school system formerly segregated by law.

76/ See note 116 (*supra*).

77/ 582 F. 2d at 778.

directed to hold additional hearings to determine the adequacy of the rate established by the State legislature in accordance with the "presumption of regularity and constitutionality" mandated by relevant judicial decisions. The appeals court indicated that only if the amount allocated was "substantially insufficient" to operate the system would the State's action "clearly be unacceptable as interfering with the operation of the desegregation decree." [78]

Louisville and Jefferson County, Kentucky

When the Supreme Court decided *Milliken*, it also vacated and remanded for reconsideration in light of that decision an appeals court order to desegregate the Louisville and Jefferson County school systems. [79] In *Newburg*, the Sixth Circuit had held that a finding of contiguous dual school systems in the city and surrounding county justified the imposition of an interdistrict remedy. In ordering the district court to eliminate "all vestiges of State-imposed segregation," the Sixth Circuit had declared that "State-created school district lines [are] to impose no barrier in accomplishing such purpose".

The suit to desegregate schools in the Louisville metropolitan area began as separate actions against the city and county school systems seeking relief in the form of a merger of the Louisville district with two other districts in the county. The district court, in an order entered prior to *Milliken*, dismissed both lawsuits on the grounds that it lacked authority to require crossing school district boundaries and that, in any event, segregation within the systems was the consequence of residential housing patterns and not the unlawful actions of school officials.

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[78] 582 F. 2d at 780.

[79] *Newburg Area Council, Inc.* v. *Board of Education*, 489 F. 2d 925 (6th Cir. 1973), *vacated*, 418 U.S. 918, *modified and reinstated*, 510 F. 2d 1358 (6th Cir. 1974), *cert. denied*, 421 U.S. 931 (1975).

The Sixth Circuit reversed, holding that the school districts were *de jure* segregated and that school attendance policies based on geographical zoning were not adequate to remedy the unconstitutional conditions. Specifically, the court noted that prior to 1954 both the city and county school boards operated separate schools for black and white students as then required by Kentucky law. It also found that these schools remained racially identifiable to the present, and that segregated conditions had been aggravated by school board practices related to new school construction and student attendance policies. For example, pointing to an elementary school in the county that had remained segregated since before *Brown*, the court concluded that vestiges of the dual school system were not eliminated as long as the school remained all black.

> Since the Jefferson County Board has not eliminated all vestiges of State-imposed segregation from the system, it had the affirmative responsibility to see that no other school, in addition to *Newburg*, would become a racially identifiable black school. It could not be 'neutral' with respect to students on assignments at [the other elementary schools]. It was required to insure that neither school would become racially identifiable.[80]

In addition, it appeared that county board policies had led to "under-utilization" of certain black schools while other facilities in nearby white neighborhoods were operated with enrollments greater than capacity.

Similarly, the Louisville board was found, *inter alia*, to have maintained an "open enrollment" policy which had the effect of aggravating segregation by enabling white students who were assigned to black schools to transfer out. Despite so-called "integration plans" adopted in the intervening years by the Louisville Board of Education, the court found that over 80 percent of the schools in Louisville remained racially identifiable in a school system that was 50 percent white. Since the effects of the pre-*Brown* State-imposed segregation still remained in the

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[80] 489 F. 2d at 929.

Louisville school system, the Sixth Circuit also reversed the trial judge's dismissal of the suit against the Louisville board and remanded both cases for further proceedings.

Meanwhile, the Supreme Court issued its ruling in Milliken prohibiting an order for interdistrict relief in the absence of a constitutional violation with interdistrict effects. Because the order in the Louisville and Jefferson County cases covered all school districts in Jefferson County, the Supreme Court vacated the order and sent the case back to the Sixth Circuit for reconsideration in light of Milliken. 81/

On remand, the Sixth Circuit reinstated its order. 82/ In support of the conclusion that an interdistrict remedy was appropriate, the court emphasized certain factors distinguishing Louisville and Jefferson County from the situation in Detroit. First, the court noted that the boundary lines between the Louisville and Jefferson County school districts had been frequently disregarded in the past to aid segregation, while Milliken involved only one such instance. In addition, the expansion of the municipal boundaries of Louisville without concurrent expansion of the city school district had resulted in a substantial number of white Louisville residents attending schools in the county. The Sixth Circuit also observed the importance of the county as the primary unit of government in Kentucky and that there were only three school systems involved, not 53 separate districts as in the Detroit metropolitan area. Thus, a metropolitan remedy would be considerably less complex to administer than it would have been in Milliken.

Most important, however, was the fact that unlike Detroit, both the Louisville and Jefferson County school districts were "equally guilty in failing to

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81/ 418 U.S. 918 (1974).

82/ 510 F. 2d 1358 (6th Cir. 1974).

eliminate all vestiges of segregation mandated by the same Kentucky statute." Because of this, the court reasoned that it could not allow the school districts to remain separate where the effect would be to impede disestablishment of the dual school systems.

> A vital distinction between Milliken and the present cases is that in the former there was no evidence that the outlying school districts had committed acts of de jure segregation or that they were operating dual school systems. Exactly the opposite is true here since both the Louisville and Jefferson County School Districts have . . . failed to eliminate all vestiges of State-imposed segregation. Consequently, as contrasted with the outlying Michigan districts, they are guilty of maintaining dual school systems.[83]

This latter rationale suggests that a finding of contiguous dual school systems may provide an independently adequate justification for an interdistrict remedy, regardless of the extent to which segregative acts in one district affect the racial composition of schools in an adjoining district.

Subsequently, the interdistrict aspect of the Louisville case was effectively mooted when the Louisville Board of Education voted to dissolve itself and consolidate its territory with that governed by the Jefferson County School Board.[84] Thereafter, proceeding on an intradistrict basis, the district court on July 30, 1975 ordered a countywide desegregation plan to be implemented in the fall, and dismissed the small Anchorage Independ School District because there was no evidence that it had discriminated. The plan, developed with the aid of Jefferson County defendants and experts for the plaintiffs, required elementary schools to be 12-40 percent black and secondary schools to be 12.5-35 percent black. Exempted from busing required by the plan were all pupils attending 16 elementary and 12 secondary schools that were within the racial guidelines. The plan also required, *inter alia,* the closing of 12 schools, racial balance in teacher and administrative assignments, and provided an exception for students participating in programs such as Headstart, alternative schools and special education programs. The plan, which involved the transportation of about 22,600 students throughout the consolidated district, was affirmed by the court of appeals on August 23, 1976. 85/

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[83] 510 F. 2d at 1359.

[84] Following the appeals court's 1974 decision, the Louisville school district was dissolved pursuant to a procedure authorized by the Kentucky statutes and the State Board of Education ordered the Jefferson County Board of Education to merge with the Louisville district to establish a new county school system that would be 81 percent white. However, had the Louisville board not voted to relinquish its jurisdiction, it appears likely that the court would have required (continued)

Subsequently, a court appointed monitoring committee filed a report which found 28 elementary schools out of compliance with the plan during the 1975-76 school year. The defendants argued that the schools in question were not within the guidelines because of residential mobility, not deliberate school board action, and that the Supreme Court's ruling in the *Pasadena* case relieved the school board of any duty to reassign students annually to maintain set racial ratios. However, the court ruled that, unlike the situation in *Pasadena*, Jefferson County had never achieved a unitary school system, and therefore there was no need to determine what caused the imbalanced enrollment. The defendants were ordered to bring the 28 schools into compliance by busing 900 additional black children, and the court of appeals affirmed. 86/

St. Louis County, Missouri

~~Since *Milliken*, the Eighth Circuit Court of Appeals in *United States* v.~~ *Missouri* 87/ has also approved an interdistrict remedy involving three school dis-

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84/ (continued) implementation of an interdistrict remedy. Consequently, the litigation may have had the effect of prompting administrative action to consolidate the two principal districts into a single metropolitan whole.

85/ 541 F. 2d 538 (6th Cir. 1976).

86/ 560 F. 2d 755 (6th Cir. 1977).

87/ 515 F. 2d 1363 (8th Cir.) (*en banc*), *aff'g and modifying* 388 F. Supp. 1058 (E.D. Mo. 1975) (final order), *cert. denied* 424 U.S. 951 (1975). See, also, 363 F. Supp. 739 (E.D. Mo. 1973) (findings and conclusions).

tricts in St. Louis County, Missouri. Until 1937, the present Kinloch School District constituted a single system that operated separate schools for black and white students pursuant to a Missouri law that required segregation in the public schools. When the city of Berkeley was incorporated in that year, the Berkeley District was detached from the present Kinloch District, creating two almost completely segregated school districts, Kinloch (black) and Berkeley (white). Interdistrict segregation had been enforced by formal transfer arrangements between the districts until 1954. The district court found that the educational opportunities in the present Kinloch School district were vastly inferior to those in the rest of St. Louis County, and that this inferiority was "a direct and forseeable consequence of the creation and maintenance of Kinloch as a small, all-black school district." 88/

Racial motivation with respect to the detachment of Berkeley from Kinloch was inferred from the fact that Missouri required dual school systems by statute at the time, and the fact that the school district boundaries themselves were inexplicable on nonracial grounds. County educational officials had favored the reorganization of Kinloch District, as had studies commissioned by the State and county which "uniformly recommended that the Kinloch District be consolidated with other school districts." Anticipating voter rejection, however, neither the State nor the county had included the Kinloch District in various consolidation plans proposed for the county. "[I]n exercising their powers of school district reorganization, State, and county school officials have, because of the race of resident students, treated Kinloch District differently from other similarly situated school districts." 89/ In short, racial considerations were found to have entered

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88/ 363 F. Supp. at 743.

89/ Ibid.

into the decision not to reorganize the Kinloch District, and "State and county officials acted on these considerations to the detriment of the Kinloch students." The segregative effects of these actions had persisted: the black district had only a handful of white students at the time of trial, and its assessed tax valuation per pupil, buildings, equipment, and faculty salaries were markedly inferior to the other districts.

Subsequent to the trial, the district court entered an order enjoining the defendants from operating the schools in St. Louis County in a discriminatory fashion, and requiring the submission of reorganization plans which would eliminate segregation in those schools. The plan submitted by the defendants and approved by the court provided for the consolidation of the Kinloch and Berkeley districts with a third, considerably larger district, Ferguson-Florissant. Consolidation of only Kinloch and Berkeley was rejected because it would not have resulted in significant desegregation and was not financially viable due to low assessed property valuations in the two districts. The approved remedy would necessitate some increase in the number of students bused but, the court found, involved no health or safety hazards.

Measured against the standards laid down by *Milliken*, the district court concluded that the proposed interdistrict remedy was appropriate in this particular situation. *Milliken* found an interdistrict remedy suitable only in the presence of an interdistrict violation or a violation having interdistrict effects. The situation in St. Louis County was a vestige of a formerly State-mandated dual school system and was also "a continuing effect of racially discriminatory State actions on the part of the defendants." [90] Although not a party to the creation of the black Kinloch District, the court justified the inclusion of Ferguson-Florissant on the basis that the rejection by Ferguson voters of a proposed plan for consolidation with Kinloch had been racially motivated. 91/ Focussing on one major distinguishing factor, the court noted that as compared to the 53 school districts included in the proposed desegregation plan for Detroit, the three district remedy would not cause any significant disruption of public education or any deviation from Missouri law, thereby meeting the equitable objections voiced in Milliken.

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[90] 388 F. Supp. at 1059.

The consolidation plan was affirmed by the Eighth Circuit, but another portion of the district court decree dealing with tax levies to support the consolidated district was modified on appeal. Testimony before the district court indicated that a maximum tax rate of $6.03 per $100 valuation would be required to operate the new district, but that it would be impossible to obtain voter approval for that level of funding. The State Board of Education therefore recommended that the maximum rate not exceed $5.38 per $100 valuation, the then current rate in Ferguson-Florissant District, with the remainder financed through the State legislature. In modifying the district court order which had opted for the higher rate, the Eighth Circuit held that while it was within the judiciary's power to require tax levies to implement a school desegregation plan, nevertheless "deference should be given to the plan submitted in good faith by the State and county officials and which is largely accepted by the court." 92/ The rate in the consolidated school district was therefore reduced to $5.38 per $100 valuation.

91/ 388 F. Supp. at 1060; 363 F. Supp. at 748-49.

92/ 515 F. 2d at 1373.

SUMMARY

Lower court decisions since *Milliken* thus demonstrate that, despite the apparent limitations on interdistrict relief imposed by the Supreme Court in the Detroit case, judicial remedies to desegregate schools in an entire metropolitan area may be appropriate in certain circumstances. Basically, three distinct types of practices that may form a pattern of constitutional violations justifying interdistrict relief have been identified by these decisions: school board policies that result in actual district line crossings by students; legislative or administrative reorganizations of school districts, consolidations, or detachments that intensify segregation within affected districts; and actions by local housing authorities that affect the residential location of families with school children within a metropolitan area.

The Wilmington and Louisville cases illustrate this first type of "interdistrict" violation where school officials in two or more districts act in concert to segregate students across district lines. For example, the *Evans* court stressed historical arrangements of city/county cooperation for the education of students in the Wilmington metropolitan area; in particular, the fact that for many years county blacks had been transferred to an all black city high school. In addition, before *Brown*, suburban students of both races had, for a variety of other reasons, been transferred across district lines to Wilmington, and the State had contributed to "white flight" from the city by subsidizing interdistrict transportation of students to private and parochial schools in the county. Similarly, in *Newburg*, the Sixth Circuit noted that boundary lines between the Louisville and Jefferson County school districts had frequently been disregarded in the past to aid segregation, while *Milliken* involved only one such instance.

Although Milliken, by rejecting the theory that State officials may be held vicariously liable for all acts of a local school board, severely weakened the viability of certain types of "State action" arguments as justification for interdistrict relief, some forms of action at the State vis a vis local level may still support a claim for such relief. For example, when State legislative or administrative action related to the organization, consolidation, or detachment of school districts results in increased segregation, this may provide a basis for finding an interdistrict violation under Milliken. The court in Evans relied primarily on the State legislature's passage of the Educational Advancement Act, excluding Wilmington from a general reorganization of Delaware school districts, as the basis for an interdistrict remedy. In United States v. Missouri, the separation of one district into black and white districts in 1937, and the refusal by State and local officials to include the black district in subsequent consolidation plans for the county, was held to justify their reconsolidation almost forty years later. In Milliken, the Supreme Court specifically referred to "line drawing" of this sort as one acceptable ground for an interdistrict remedy.[93]

A second type of line drawing problem is presented when school district lines do not conform to governmental boundaries for other purposes, and the effect of this discrepancy is increased segregation within city and suburban school systems. In the Indianapolis case, the

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[93] 418 U.S. at 745.

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State legislature approved a plan organizing all governmental services on a metropolitan basis except for schools, which remained divided between city and suburbs. In Louisville, the boundaries of the Louisville School District were drawn well inside the city limits, allowing 10,000 students, mostly white, to live in the city but attend county schools.[94] The mismatches were found to be *prima facie* evidence of a segregative purpose whose effects justified interdistrict relief. It follows from the Louisville and Indianapolis cases that unless the defendant State or local officials can demonstrate that the determination of governmental boundaries was based solely on legitimate non-racial reasons, an interdistrict remedy may be appropriate.[95]

Another type of line drawing that may provide a basis for finding an interdistrict violation involves the consolidation of school districts. In *Morrilton School District No. 32 v. United States*[96] a series of three major school district consolidations in Conway County, Arkansas, mandated by the State Legislature prior to 1950, had the effect of combining a number of small segregated districts into a few larger, but still segregated, districts. In an *en banc* decision, the Eighth Circiut unanimously held that because the consolidation program failed to remedy, and effectively preserved, the *de jure* line crossings and reorganizations. This is suggested by Justice Stewart's assertion in Milliken that the concentration of black residents in Detroit was due to "unknown and perhaps unknowable factors." Another difficulty in using State or local housing or zoning laws as a basis for finding an interdistrict violation is the necessity of showing a discriminatory purpose. Certain zoning and housing laws that have the effect of segregating blacks in urban areas may have been designed to preserve open space, lessen the burden on municipal services, or accomplish other legitimate purposes that may preserve them from constitutional challenge.[97] Nonetheless, the post-Milliken cases demonstrate that a litigation strategy based in part on housing violations may succeed in certain circumstances.[98]

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[94] *Newburg Area Council, Inc.* v. *Board of Education*, 510 F. 2d 1358, 1361 6th Cir. 1974), *cert. denied* 421 U.S. 931 (1975)

[95] The difficulty with this approach may lie in the requirement of finding a discriminatory purpose. There may be legitimate reasons, such as economies of scale, for providing some services but not others on a metropolitan basis. Indeed, the *Milliken* Court itself stressed the importance of the factor of local control over education as militating against imposition of interdistrict remedies. However, when most services are provided regionally, the exclusion of school districts from an overall plan of government consolidation may become more suspect, and it may be more difficult for defendants to defeat a *prima facie* case by showing that they acted exclusively for nonracial reasons in not consolidating schools.

[96] 606 F. 2d 222 (8th Cir. 1979), *cert. denied* 48 U.S. L.W. 3535 (S.Ct. 2/19/80).

It should be noted, however, that the post-Milliken lower courts which have ordered interdistrict relief all involved school districts that had operated statutory dual school systems in the past, and where the effects of pre-1954 de jure segregation had lingered without remedy. Although the Supreme Court was not directly confronted with the issue, Columbus and Dayton II leave open the possibility that a "vestiges" rationale could likewise be used to obtain interdistrict relief in school districts without a prior history of statutorily enforced racial separation of students. In Milliken, where only intradistrict violations in a single school district were proven, the Court was unwilling to presume the existence of interdistrict violations.[99/] By contrast, it is arguable that once the plaintiffs in such a case have established a single or repeated interdistrict violations with significant unremedied effects, the vestiges "presumption" of Columbus and Dayton II might be applied to shift the burden of proof to State and local defendants regarding other segregation between the districts schools. For example, if cooperative transfers of students for a segregative purpose, or significant housing violations, are proven, it could be presumed that the identified officials committed other violations having similar effects. Thus, while northern litigants may be less able than their southern counterparts to trace current segregation to an historical statutory source, the theory of unremedied vestiges of past segregative action (i.e. the continuing failure of State officials to remedy the effects of their past misdeeds), borrowed from the intradistrict context, could lessen the plaintiffs' burden of showing that other, more subtle forms of discrimination, led to segregated schools in more than one district.

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[97] See, Arlington Heights v. Metropolitan Housing Development Corp. 429 U.S. 252 (1977), n. 78 (supra).

[98] See, also Hills v. Gautreaux, 425 U.S. 284 (1976) n. 75 (supra).

[99/] While the opinions of both the Chief Justice and Justice Stewart, concurring, emphasized that Milliken did not involve contiguous dual school systems, the Court did not expressly consider whether a showing of contiguous intradistrict violations, but without evidence of interdistrict effect, might be sufficient in and of itself to justify the imposition of an interdistrict remedy. To date, the only decision to suggest that it would is the Sixth Circuit ruling in the Louisville case (Newburg, supra) but that aspect of the court's ruling was largely dicta since there were other grounds to support the finding of an interdistrict violation. See, 510 F. 2d at 1361.

Finally, to avoid the barriers posed by *Milliken*, the courts in at least two cases have relied on State constitutional provisions to order interdistrict relief. An intermediate California State court, in *Tinsley v. Palo Alto Unified School District*,[100] found that interdistrict relief could be justified under article I, section 7, of the California constitution, which established a State guarantee of equal protection. In *Tinsley*, the district court of appeals upheld on demurrer the plaintiff's request for the integration of students from a black-majority elementary school district in the San Francisco suburbs with those from a neighboring white-majority elementary school district. The court began its analysis by noting that the California Supreme Court, in *Crawford v. Board of Education*,[101] had held *de facto* intradistrict segregation to be a violation of the State constitution's equal protection guarantee. The court then held that *Crawford* applied to *de facto* segregation across district lines, as long as the districts were adjoining. Having found a violation of State constitutional law, the court rejected the defendant's argument that *Milliken* was binding precedent.

In *Berry v. School District*,[102] a federal district court in Michigan based resort to an interdistrict remedy on article VIII, section 2, of the 1962 State constitution, which orders "every school district [to] provide for the education of its pupils without discrimination..." Although the provision is addressed to "school districts," the court concluded that it imposed an affirmative duty on "all state and school authorities," the Governor, and the attorney general. Dereliction by State officials of this duty to remedy local *de jure* segregation, the court held, constituted a violation of Statewide scope justifying interdistrict relief. The court thus relied on the State constitution to achieve the same ends sought by the the plaintiffs in *Milliken*: characterization of the violation as statewide to allow for inclusion of more than one school district within the scope of the remedy.

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[100] 91 Cal. App. 3d 871, 154 Cal. Rptr. 591 (1979).

[101] 17 Cal. 3d 280, 551 P. 2d 28, 130 Cal. Rptr. 724 (1976) (Los Angeles County schools).

[102] 467 F. Supp. 630 (W.D. Mich. 1978)

In conclusion, while *Milliken* places restrictions on the courts' authority to order interdistrict or metropolitan remedies in school desegregation cases, such relief may still be available in a wide range of cases. Line crossings, boundary changes, and residential population shifts brought about by official discrimination may all satisfy *Milliken*'s requirement of an interdistrict violation. Both the Wilmington and Louisville cases appear to depart from strict adherence to *Milliken*, suggesting a relaxed application of the discriminatory intent test, and that where there is some combination of *de jure* violations within the included districts, breaches of district lines, and an absence of equitable restraints based on local control and administrative difficulties, rigorous inquiry into interdistrict segregative effects may not be required. Additional developments in the law can be expected, particularly in regard to the applicability of *Columbus* and *Dayton* II to multidistrict litigation seeking metropolitan-wide desegregation of northern urban areas. Finally, it is possible that claims based on State constitutional grounds will more frequently be used to supplement the Federal law in the future.

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LEGAL ANALYSIS OF H.J. RES. 56 PROPOSING AN AMENDMENT TO THE U.S. CONSTITUTION REGARDING THE ASSIGNMENT OF STUDENTS TO THE PUBLIC SCHOOLS

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July 27, 1981

LEGAL ANALYSIS OF H.J. RES. 56 PROPOSING AN AMENDMENT TO THE U.S. CONSTITUTION REGARDING THE ASSIGNMENT OF STUDENTS TO THE PUBLIC SCHOOLS

On January 5, 1981, Representative Mottl introduced H.J. Res. 56 which was referred to the Committee on the Judiciary. That resolution proposes an amendment to the Constitution, to become effective if ratified by three-fourths of the State legislatures within seven years of passage, which provides as follows: "No court of the United States shall require that any person be assigned to, or excluded from, any school on the basis of race, religion, or national origin."

Although not expressed in so many words, the apparent intent and probable effect of the constitutional amendment proposed by H.J. Res. 56 would be to limit the remedial alternatives available to the Federal courts in school desegregation cases. That is, it would seem to prohibit the Federal courts from enforcing any desegregation plan or order requiring the transfer or assignment of students to the schools "on the basis of race, religion, or national origin." For purposes of the proposed amendment, it is indifferent whether such a plan is directed to the elimination of segregation de jure in origin, i.e. that which is brought about by the intentional actions of school officials and traditionally condemned by the Equal Protection Clause, or de facto and resulting without the complicity of State or local officials. In addition, the amendment contains no explicit mention of court ordered transportation or busing, but speaks simply in terms of the "assign[ment] to, or exclu[sion] from, any school" for prohibited purposes. Accordingly, while it would seem to clearly preclude the former, it may also extend beyond judicially ordered busing and restrict the court's authority to enforce other more or less tradtional "race conscious" remedies in school desegregation cases. These may include the rezoning of school attendance boundaries, new school construction and the closing of obsolete facilities, school consolidations, and the like, which do not entail explicit racial classifications, or necessarily increase transportation burdens, but do have as their ultimate objective the reassignment of students to ameliorate racial concentrations in the public schools. However, because it is framed as a limitation upon the powers of the "United States" courts, the amendment would not preclude resort by the State courts or educational officials to desegregation measures which employ racially based student assignment techniques.

It should also be observed that the reason for inclusion of the term "religion" as a prohibited student assignment criterion along with those of race or national origin is not entirely clear. Whether the sponsors of the proposal are aware of any actual problems in this area, or simply wish to prevent their emergence at some time in the future, is beyond present ascertainment. Nonetheless, since the amendment is not expressly limited to public school students, and would thus include those attending private institutions as well, its adoption could have an effect on Federal judicial authority with regard to sectarian schools whose admission criteria not infrequently include religious background.

With these considerations in mind, it is necessary in order to more fully evaluate the implication of H.J. Res. 56 to briefly survey the course of Supreme Court decisions in school desegregation cases. In Brown v. Board of Education,[1] the Court ruled that the Equal Protection Clause of the Fourteenth Amendment forbade State policies mandating the separation of students in the public schools on the basis of race. In striking down State statutes which required or permitted, by local option, separate schools for black and white children, the Court declared that the "separate but equal" doctrine of *Plessy* v. *Ferguson*[2/] has no place in public education.

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[1] 347 U.S. 483 (1954).

But the evolution of the *Brown* doctrine goes further than simply calling for the repeal of regulations that embody invidious racial criteria. Subsequent decisions made clear that State and local authorities who have committed unlawful practices have an "affirmative duty" to abolish the effects of former discriminatory practices "root and branch,"[3/] and adopt remedial plans that "promise realistically to work, and promise realistically to work now."[4/]

In *Swann* v. *Board of Education*[5/] the Court defined the scope of judicial authority to enforce school district compliance with this constitutional obligation and set forth "with more particularity" the elements of an acceptable school desegregation plan. In eliminating illegally segregated school systems, the Court emphasized, the neighborhood school or any other student assignment policy "is not acceptable simply because it appears to be neutral." Rather, in a system with a prior history of *de jure* segregation, a constitutionally adequate remedy may require a "frank--and sometime drastic--gerrymandering of school districts and attendance zones," resulting in zones

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[2/] 163 U.S. 537 (1895).

[3/] *Green* v. *County Board of Education*, 391 U.S. 430 (1968).

[4/] *Alexander* v. *Holmes County Board*, 396 U.S. 19 (1969).

[5/] 402 U.S. 1 (1971).

"neither compact nor contiguous, indeed they may be at opposite ends of the city." Accordingly, the lower courts may require school officials to implement plans involving

> . . . gerrymandering of school districts. . .[and] 'pairing', 'clustering', or 'grouping' of schools with attendance assignments made deliberately to accomplish the transfer of Negro students out of formerly Negro schools and transfer of White students to formerly all-Negro schools.[6]

The Swann Court also affirmed the limited use of mathematical ratios of white students to black students as a basis for the remedial assignment of students to the schools. "Awareness of the racial composition of the whole school system is likely to be a useful starting point in shaping a remedy to correct past constitutional violation."[7]

In a companion to Swann, the Court in McDaniel v. Barresi[8] stressed the importance of race related student assignment techniques in formulating effective remedies for unlawful segregation. In sustaining a school desegregation plan against allegations that it involved unconstitutional racial student assignments and busing, the Court reiterated the remedial standards set forth in Green and Swann and found that "[i]n this remedial process, steps will almost invariably require that students be assigned 'differently because of their race.' [citation omitted]. Any other approach would freeze the status quo that is the target of all desegregation processes."[9]

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[6] 402 U.S. at 27.

[7] 402 U.S. at 25.

[8] 402 U.S. 38 (1971).

[9] 402 U.S. at 41.

The rulings in Brown, Green, and Swann involved jurisdictions, primarily in the South, that had at one time enforced segregation by statute. In Keyes v. School District No. 1, Denver Colo.,[10] however, the Court held that the same affirmative constitutional obligation pertains to Northern school districts, without a prior history of statutory dual schools, where segregation is found to be the product of deliberate actions by school officials. Most recently, the Supreme Court affirmed this mandate in upholding the appropriateness of system-wide student reassignment and busing plans in the Dayton and Columbus cases which were found to have been purposely segregated in the past.[11]

In short, the Supreme Court has consistently stressed the need for race and ethnic conscious remedies to desegregate schools and has even stated that "it is unlikely that a truly effective remedy could be devised without continued reliance upon [them]."[12] These plans have usually required consideration of racial factors in making student assignment decisions. Thus, they may involve the direct transfer of students—as where the "pairing," "coupling," or "grouping" of schools is involved—or may accomplish much the same result in a more indirect fashion by school closings, consolidations, or redrawing attendance boundaries so that students in racially concentrated areas are effectively zoned out. The proposed amendment would seem to largely preclude resort by the Federal courts to these traditional desegragation techniques, and as already noted, this would apparently be true whether or not additional student transportation or busing is necessary to implement the underlying student assignment plan.

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[10] 413 U.S. 189 (1973).

[11] Dayton Board of Education v. Brinkman, 443 U.S. 526 (1979); Columbus Board of Education v. Penick, 443 U.S. 449 (1979).

[12] North Carolina Board of Education v. Swann, 402 U.S. 43, 46 (1971).

Although the amendment proposed by H.J. Res. 56 might thus be interpreted as limiting the remedial authority of the Federal courts in school desegregation cases, this may not be the invariable result if the courts seek to construe it with a view to reconciliation with existing judicial precedent under the Fourteenth Amendment. For example, the prohibition on racially based student assignments might be read as forbidding such assignments except as required by the Court's constitutional holdings in Brown and its progeny. Such a construction would harmonize the Fourteenth Amendment and the limitation embodied in the proposal. But instead of this or other possible narrow interpretations induced by a desire to reconcile H.J. Res. 56 with existing constitutional authority, the courts may indeed be inclined to read the amendment literally, particularly if such a reading is consonant with a discernible general understanding to that effect both in Congress and the ratifying State legislatures. Moreover, a broad reading is arguably consonant with its status as an article in the fundamental law of the land. If this broader reading prevails, the proposed amendment could effectively deprive the Federal courts of frequently used techniques to desegregate the public schools. As observed, the remedial assignment of students on account of race, either directly or indirectly, has been the dominant feature of desegregation plans approved by the court since the Green and Swann decisions.

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July 27, 1981

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November 10, 1981

TO : House Judiciary Committee
Attention: Janice Cooper

FROM : American Law Division

SUBJECT : Sundry Questions Regarding the Legal Effects of H.J. Res. 56 Proposing An Amendment to the U.S. Constitution Relative to Public School Assignment Policies

Reference is made to your inquiry concerning the above. H.J. Res. 56, introduced by Representative Mottl on January 5, 1981 and referred to the Committee on the Judiciary, would amend the U.S. Constitution to provide that: "No court of the United States shall require that any person be assigned to, or excluded from, any school on the basis of race, religion, or national origin." Specifically, you ask whether this proposed constitutional prohibition would 1) apply retroactively to Federal court desegregation decrees ordered prior to, and in effect, on the date of adoption or to future judicial modifications of such preexisting orders because of changed circumstances; 2) affect the operation or implementation of "race conscious" remedies--such as magnet schools or lottery systems for the assignment of students--which, although not based on explicit racial criteria, are nonetheless designed to effect the redistribution of students in order to overcome segregation within the school system, and 3) affect plans providing for the reassignment of teachers in order to achieve faculty and staff desegregation.

As discussed at some length in our earlier report,[1/] the Mottl Amendment

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[1/] See, CRS Report, "Legal Analysis of H.J. Res. 56 Proposing an Amendment to the U.S. Constitution Regarding the Assignment of Students to the Public Schools," by Charles V. Dale, July 27, 1981.

would seem to effectively limit the remedial alternatives available to the Federal courts in school desegregation cases by prohibiting the judicial assignment or exclusion of "any person" from the schools "on the basis of race, religion, or national origin." Traditionally, the Supreme Court in formulating remedies to eradicate the effects of unconstitutional segregation in the schools has recognized the need for race and ethnic conscious student assignment and transfer techniques--with or without student busing[2]--and has even stated that "it is unlikely that a truly effective remedy could be devised without continued reliance upon [them]."[3] In the face of the Mottl Amendment however, it seems clear that the courts would have to depart from this remedial approach in future cases and refrain from consideration of racial factors in making student assignment decisions. Accordingly, they would be restricted to implementing plans predicated on the neighborhood school concept, freedom of choice, or other "race neutral" assignment techniques based on student voluntarism, approaches that have largely been discarded in favor of "affirmative" remedies under the present law.

In addition to this prospective effective, the amendment might also require the dissolution of many affirmative student assignment schemes and the substitution of other remedies embodying the same principle of racial neutrality. This is because, as affirmed by the Supreme Court as early as *Brown II*,[4] judicial authority to implement a desegregation decree does not end with judgment or approval of a plan. Rather, Federal equitable jurisdiction in school cases generally continues for the entire duration of any plan adopted--so that, for example, the court can make any adjustments required by changed circumstances or otherwise insure adequate compliance by school officials--until such time as the court formally dismisses the case. Since at any time before the court so relinquishes jurisdiction, continuation of any remedial assignment scheme mandated by the plan could be viewed as "require[d]" by the court, it might fall within the prohibition of the Mottl Amendment. Thus, although the amendment does not contain any express retroactive clause, it would probably be interpreted as so applying at least with respect to plans in effect on the date of adoption and over which the court has retained jurisdiction.

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[2] See, *Swann* v. *Board of Education*, 402 U.S. 1 (1971).

[3] *North Carolina Board of Education* v. *Swann*, 402 U.S. 43, 46 (1971).

[4] *Brown* v. *Board of Education* (*Brown II*), 349 U.S. 294 (1955).

Greater uncertainty may pertain to the effect of the amendment on desegregation measures which have as their ultimate objective the amelioration of racial concentrations in the public schools but do not entail the explicit consideration of racial factors. In the case of many traditional desegregation techniques--as where the "pairing," "coupling," or "clustering" of schools is involved--the grade structure and attendance boundaries of the affected schools are determined by demographic rather than geographic characteristics of the community, and the play of racial considerations is readily apparent. The same result may be accomplished, however, in more indirect fashion by new school construction and the closing of obsolete facilities, school consolidation techniques, or redrawing attendance boundaries so that students in racially concentrated areas are effectively zoned out. While these methods would also appear covered by the amendment, at least if unsupported by any nonracial educational objectives, they may pose a closer question. Similarly, it is possible that the amendment could be construed in some situations to reach the two specific examples posed by the second portion of your inquiry-the use of magnet schools or a lottery system to assign students.

Although attendance at a magnet school is generally the product of student or parental choice, as that concept is applied in the school desegregation context, a black/white student ratio is frequently imposed to assure that the desired integrative effect is achieved. In those circumstances, a magnet school program may be prohibited because it could result in the denial of a student's application if his or her admittance was inconsistent with the racial ratio set by the court for that particular school. Thus, despite its voluntariness, the magnet school concept could result in the exclusion of students because of race. Less difficulty may inhere in the unrestricted use of a lottery system for student assignments because the randomness of the selection process would seem devoid of racial overtones. As in the previous example, however, if a student's actual admission to the school is subject to a racial ceiling or other numerical limitation, the lottery system would likewise appear to violate the amendment as involving a forbidden racial exclusion.

Beyond its impact on judicial use of student assignment and transfer techniques to desegregate schools, the Mottl Amendment speaks generally in terms of the racially based assignment of "any person" and would presumably reach such practices as they relate to teachers and other educational personnel employed by a school district as well. Traditionally, the courts have held that during the desegregation process, staff members who work directly with students and professional staff on the administrative level must be hired, assigned, promoted, and otherwise treated without regard to race, color, or national origin.[5/] This principle has led to widespread judicial acceptance of the so-called "Singleton rule" that staff must be assigned so that the resulting ratio of black to white staff in each school is substantially the same as each ratio is to the staff in the entire school system.[6/] By prohibiting the assignment or exclusion of "any person" to the schools because of race, however, the Mottl Amendment would appear to effectively bar the Federal courts from employing such affirmative race conscious means to achieve faculty and staff desegregation.

It is hoped that this will be of assistance to you.

Charles V. Dale
Legislative Attorney

[5/] See, Rogers v. Paul, 382 U.S. 198 (1965); Bradley v. Richmond School Board, 381 U.S. 103 (1965); United States v. Jefferson County Board of Education, 372 F. 2d 836 (5th Cir. 1966).

[6/] Singleton v. Municipal Separate School District, 419 F. 2d 1211 (5th Cir. 1969).

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THE POSSIBLE IMPACT OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981 ON ACTIVITIES THAT HAVE BEEN FUNDED UNDER THE EMERGENCY SCHOOL AID ACT

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January 11, 1982

THE POSSIBLE IMPACT OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981 ON ACTIVITIES THAT HAVE BEEN FUNDED UNDER THE EMERGENCY SCHOOL AID ACT

INTRODUCTION

The Emergency School Aid Act (ESAA) has been the Federal Government's major program of financial aid to school districts undergoing school desegregation. 1/ Under the provisions of the Education Consolidation and Improvement Act (ECIA) of 1981 (Title V, Subtitle D of the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35), ESAA is repealed effective October 1, 1982 and its programs included among the various activities that local educational agencies (LEAs) can carry out with an education block grant. 2/

This paper provides an assessment of the impact on school desegregation of the consolidation of ESAA. Following two overview sections describing ESAA as it exists for the 1981-82 award period and the specific provisions of the ECIA that affect ESAA, is an assessment of the possible impact of the consolidation through analyses of (1) ESAA program evaluations, (2) the role of the ESAA eligibility process in securing school desegregation, and (3) the financial implications for LEAs of the ESAA consolidation.

1/ ESAA was enacted by the Education Amendments of 1972 (P.L. 92-318) and was added to the Elementary and Secondary Education Act of 1965 (P.L. 89-10, as amended) by the Education Amendments of 1978 (P.L. 95-561). Its predecessor, the Emergency School Aid Program, was established under discretionary authority by the Commissioner of Education in 1970 and funded by appropriations legislation for the Office of Education.

2/ The ECIA as it relates to ESAA is described in subsequent pages. Chapter 2 of the Act consolidates ESAA and other education programs.

In general, the following analysis concludes that the most significant impact of the consolidation of ESAA may be the termination of non-discriminatory requirements that ESAA applicants have had to meet as a precondition of their eligibility for funding.

ESAA--A PROGRAM DESCRIPTION [3]

The ESAA authorizes financial assistance to State educational agencies (SEAs) and LEAs, and nonprofit organizations for the following two purposes:

1. To meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; and
2. To encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students. [4]

In recent years, ESAA funds have been awarded for the following authorized programs: a program of Basic Grants to LEAs under which the total funding going to LEAs within any single State is controlled by a State allotment formula, and a series of categorical programs awarded through national competition (these include a group of Special Programs and Projects, and Nonprofit Organization Grants). [5] To be eligible for funding, a LEA must meet specific requirements.

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[3] See Bob Lyke, "Guide to the Statutory Provisions of the Emergency School Aid Act," Congressional Research Service, December 4, 1979, for a description of all authorized activities, including those not recently funded.

[4] Section 602(b) of the Elementary and Secondary Education Act. "Minority group isolation" occurs when more than 50 percent of a school's enrollment is minority group children. "Minority group" is defined as including American Indians, Alaskan Natives, Asians, Pacific Islanders, blacks not of Hispanic origin, Hispanics, Franco-Americans, Portuguese, and persons from a foreign language-dominated background who, as a result of language and cultural barriers, do not have an equal educational opportunity.

[5] Two additional categories of grants, not funded in recent years, are Metropolitan Area Project Grants (to be awarded to LEAs which in conjunction with other metropolitan area LEAs work to maintain integrated schools) and Follow-the-Child Grants (to be awarded to LEAs for compensatory education for students no longer receiving such education under Title I of the Elementary and Secondary Education Act as a result of school desegregation).

However, ineligibility resulting from failure to meet certain of these requirements can be waived by the Secretary of Education under exceptional circumstances.

Basic Grants

Funding for Basic Grants is allocated among the States on the basis of each State's share of the total number of minority group children aged 5 through 17 in the country. LEAs apply directly to the Department of Education (ED) for a determination of eligibility and subsequent funding, if any. Among the kinds of activities which can be funded with Basic Grants are staff training; employment of additional staff; development of new curricula for teaching children from all racial, ethnic, and economic backgrounds; development of new educational and extracurricular activities in which minority group and other children jointly participate; community relations; and activities to prevent or eliminate continuing problems resulting from a desegregation plan. Basic Grants have generally constituted a major portion of the ESAA annual appropriation.

TABLE I. Basic Grant and Total ESAA Appropriations
(in millions)

Fiscal Year	Basic Grant Appropriations	Total ESAA Appropriations
1973	$134.5	$288.0
1974	146.9	236.0
1975	133.5	215.0
1976	137.6	245.0
1977	137.6	257.5
1978	137.6	300.5
1979	137.6	300.0
1980	107.8	248.6
1981	33.4	149.2

Source: Department of Education, Annual Evaluation Report, Fiscal Year 1980, Volume II, page 75. Amounts for 1980 and 1981 have been adjusted to reflect recent budget actions. Note that a $3 million appropriation was made for the transition quarter between FY 1976 and FY 1977.

As is described below, the Secretary of Education has discretionary funding under the Special Programs and Projects which is used to address certain unmet needs in the Basic Grant Program.

Nationally-Competed Grant Programs

The categorical programs authorized for ESAA fund a wide array of activities. Under the subheading "Special Programs and Projects," the statute authorizes grants to carry out the purposes of ESAA. Among the authorized activities are: (1) planning, designing, and conducting programs in magnet schools; 6/ (2) pairing schools with colleges and businesses; (3) developing plans for neutral site schools; 7/ (4) helping to meet the needs of minority group children of limited English-speaking proficiency; and (5) developing and producing integrated children's television and radio programs of educational value.

Grants can also be made under this authority to SEAs for planning, encouraging, assisting and training in connection with voluntary desegregation plans to eliminate or reduce minority group isolation. In addition, from the appropriation for Special Programs and Projects, grants can be made at the Secretary of Education's discretion to meet the general purposes of ESAA. These funds have been used for a variety of activities: awards to districts required to implement a desegregation plan too late to apply for Basic Grants ("out-of-cycle grants"); awards to districts with recent plans eligible for funding under the Basic Grant program, but not funded due to limited appropriations ("severe unmet needs grants"); grants for desegregation planning; pre-implementation assistance to districts getting ready to implement a plan; unexpected desegregation needs

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6/ A magnet school is one offering a special curriculum to attract voluntary enrollment of students from different racial backgrounds.

7/ A neutral site school is one accessible to students of different racial backgrounds.

arising throughout the year ("special assistance"); grants for multicultural arts; and assistance for the Territories. Finally, a portion of the Special Programs and Projects funding is used for evaluations of ESAA-funded programs.

FY 1981 funding levels for the Special Programs and Projects are provided below.

TABLE II. Special Programs and Projects FY 1981 Appropriations
(in millions)

Program	FY 1981 Appropriations
Magnet schools, pairing and neutral site schools	$ 30.0
Educational Television and Radio	4.5
Evaluations	.5
Out-of-cycle grants	11.7
Severe unmet needs	59.0
Local educational agency planning	.5
Pre-implementation assistance	.8
Special assistance	.4
Multicultural arts project	1.6
State educational agency incentives	2.0
Territories	0.0
Total	$111.0

Source: Department of Education, Emergency School Aid Act Fiscal Year 1981, October 20, 1981 (revised).

Nonprofit Organizations Grants

These grants support the development or implementation of qualifying desegregation plans. 8/ Eligible recipients are public and private nonprofit organizations, agencies, and institutions, but not LEAs. Funding for nonprofit organization grants in the past two fiscal years has been $5.0 million in each year.

8/ See below for a discussion of what constitutes a qualifying desegregation plan.

Eligibility

To be eligible for ESAA funds, an LEA must meet four specific nondiscrimination requirements and be implementing a qualifying desegregation plan. An LEA is ineligible for ESAA funds if after June 23, 1972, it engaged in any of the following four activities:

(1) transferred property or provided services to a nonpublic school or system without first determining that it is not racially segregated and does not practice discrimination;

(2) discriminated in hiring, promoting, or assigning employees;

(3) assigned children to or within classes so that minority group children were separated for a substantial portion of the day; or

(4) discriminated in any other way such as limiting activities in which minority group children may participate.

The investigation to determine compliance or lack of compliance with the four requirements is conducted by the Office for Civil Rights (OCR) of ED. The Secretary offers an ineligible LEA an opportunity for a hearing to show cause why the ineligible status should be revoked.

A separate waiver process is available to an ineligible LEA (with or without a "show cause" hearing). The LEA's application for the waiver must contain a statement of why the LEA was ineligible; assurances that any violating practice, policy, procedure, or other activity has ceased; and provisions to ensure that such practice, policy, procedure or other activity will not reoccur. A waiver can be approved only in writing and only by the Secretary of Education. 9/

Depending upon the precise reason for the ineligibility determination, the LEA must supply the following additional information. For transfer to discriminatory nonpublic schools, the LEA must include such information as a list of all

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9/ Although authorized by law, the waiver process is largely defined by ESAA regulations, Title 34 CFR Part 280. The description which follows is drawn from the regulations.

property or services provided to the nonpublic schools, the names and addresses of these schools, a description of the benefits received in exchange, evidence that the transfers have been rescinded and a statement of how the LEA will prevent such transfers in the future.

For *disproportionate dismissals or demotions of minority group personnel*, the LEA must provide an affirmative action plan that will restore minority group personnel to their relative status prior to the disproportionate dismissals or demotions, and a statement of how the LEA will prevent such disproportionate dismissals or demotions in the future.

For *discriminatory dismissals or demotions of staff*, the LEA must provide evidence that such dismissed or demoted staff have been offered their former positions and financial compensation, and a statement of how the LEA will prevent any future discriminatory dismissals or demotions.

For *discriminatory assignment of teachers*, the LEA must provide evidence that it has assigned full-time teachers to schools so that no school can be identified as being for students of a particular race, color, or national origin. If such an LEA is implementing a required plan (see below) which includes faculty assignment, the non-discriminatory assignments must comply with that plan. If the LEA is not implementing a plan which covers faculty assignment, the LEA must make assignments so that the proportion of minority group teachers at each school falls between 75 and 125 percent of the systemwide proportion.

For *classroom segregation*, the LEA must provide evidence that minority group children are not separated from non-minority group children for more than 25 percent of the school day's classroom periods, except for ability groupings, and a statement of how the LEA will prevent such segregation from recurring.

For *denial of equal educational opportunities to national origin minority group children*, the LEA must submit an educational plan to address the effects of the denial and meet the special educational needs of all national origin minority children for whom the LEA is responsible:

For providing facilities or services to a group or organization that discriminates against minority group children, the LEA must provide evidence that shows, among other things, that activities are no longer permitted and any previous agreement has been rescinded.

For educationally unjustified assignment of students to racially or ethnically identified groups, tracks or classes, the LEA must provide evidence that the students have been reassigned without discrimination. If the discrimination involves services to handicapped students, the LEA must provide evidence that the students have been evaluated and placed in accordance with P.L. 94-142 (the Education for All Handicapped Children Act of 1975), Section 504 of P.L. 93-112 (nondiscrimination against handicapped individuals in federally-assisted programs or activities) and any regulations issued under these statutes.

Finally, an application from an LEA can be approved by the Secretary of Education only if the LEA is developing or implementing one of the following eligible desegregation plans:

(1) a plan requiring desegregation of children or faculty pursuant to a final court order or order of a State agency or official;

(2) a plan for desegregation of children or faculty as approved by the Secretary of Education under Title VI of the Civil Rights Act of 1964;

(3) a voluntary plan for complete elimination of minority group isolation in all of its minority group isolated schools; or

(4) a voluntary plan for reducing or eliminating minority group isolation in one or more of its minority group isolated schools, or for reducing the total number of minority group children in such schools, or for preventing minority group isolation in those schools with between 20 and 50 percent minority group students.

Planning for the implementation of these plans can be funded through a Special Programs and Projects grant. Development of required plans can be funded under the Basic Grants.

These are additional factors used by the Secretary of Education to rank applications that clearly affect eligibility. For example, more recent desegregation plans receive a funding priority, and the more net change in minority group isolation provided in a plan the higher its funding priority. Also, the degree to which an application will address the educational needs that arise from the implementation of the LEA's qualifying plan helps to determine whether the Secretary will fund an application.

CONSOLIDATION OF ESAA--GENERAL DESCRIPTION

Chapter 2 of the ECIA (Title V, Subtitle D of the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35) consolidates the program authorizations of several education programs, including ESAA into a single authorization. Although the purposes of these programs continue as authorized activities under the Chapter 2 consolidated grant, SEAs and LEAs are free to choose from among these activities.

Funding to the States is based on shares of the 5 to 17 school-aged population. The SEA must allocate at least 80 percent of these funds directly to LEAs. The allocations to LEAs are based on the relative enrollments in public and nonpublic schools within the school districts, adjusted by approved criteria to provide higher per pupil allocations to LEAs with the greatest numbers or percentages of children whose education imposes a higher than average cost per child. Local school officials are required to develop a plan for use of the funds, but they have complete discretion in determining local priorities within the purposes of the legislation.

Three broad categories of activities are authorized: Basic Skills Development, Educational Improvement and Support Services, and Special Projects. The Educational Improvement and Support Services category authorizes, among its activities, those which were formerly authorized by ESAA. These specific activities are described as programs to address educational problems arising from the isolation of minority group children, to develop and implement desegregation plans, and to meet the needs of children in schools under going desegregation (section 577, ECIA).

Effective October 1, 1982, the statutory authority of ESAA is repealed. The Chapter 2 program is effective beginning July 1, 1982. Funds appropriated under the ESAA (or any other act consolidated into Chapter 2) for use after July 1, 1982 shall be used in accordance with the Chapter 2 legislation rather than the antecedent act (section 514(b)(2), ECIA).

CONSOLIDATION OF ESAA--POSSIBLE IMPACT ON SCHOOL DESEGREGATION ACTIVITIES

In this section, the possible impact of ESAA's consolidation on school desegregation activities is assessed through (1) an overview of the effectiveness of ESAA programs as measured by various evaluations, (2) an analysis of the role that the ESAA pre-grant review and waiver procedures may play in securing school desegregation, and (3) a consideration of the funding implications of the ESAA consolidation on various LEAs currently receiving ESAA funds.

Evaluations

There appear to be at least three groupings possible of ESAA-related program evaluations. The first includes the evaluations of ESAA's predecessor, the Emergency School Aid Program. The second group covers the period from ESAA's enactment in 1972 through the Education Amendments of 1978. The third group would cover the post-Education Amendments of 1978 period. According to ED, none of its evaluations of this last period has been completed.

Although the most relevant period for which there are completed evaluations is the 1972-78 period, many of the changes in ESAA made by the Education Amendments of 1978 were responses to concerns identified in these evaluations. As a result, it is not entirely clear that any wholly adequate assessment of the ESAA programs consolidated by ECIA can be made given the absence of evaluations of them in their present form. The review of findings from the 1972-78 period provided below does suggest some of the ways ESAA activities affected LEAs and may have continued to do so following the Education Amendments of 1978.

ESAA program evaluations can address at least two issues--the extent to which the administering Federal agency, the SEAs and LEAs, and any nonprofit organizations being funded have followed the authorizing statute and regulations; and, the degree to which the activities funded by ESAA achieve their goals. The latter is the more difficult to assess given that the purposes of the program (see above) are not easily quantified. As a result, ESAA evaluations have considered the impact of the program on such things as academic achievement and factors intended to measure to the racial climate in schools.

Among the findings of the evaluations between 1972 and 1978 are the following:

(1) The first two years of ESAA funding had little measured positive impact on schools. By the third year, ESAA-funded elementary schools had higher per pupil spending, higher spending on reading and math (subject areas found to be associated with higher levels of achievement), and greater amounts of remedial staff time devoted to reading and math. Achievement gains were recorded for the elementary schools. 10/

10/ Coulson, John E. Overview of the National Evaluation of the Emergency School Aid Act. System Development Corporation. July 1977.

(2) Targeting of ESAA funds was a problem. For example, older desegregation plans were being supported. Also, the State allotment process for Basic Grants could preclude concentration on districts with the greatest desegregation needs. 11/

(3) Assistance was primarily being used to overcome educational disadvantage of children, rather than assisting districts with reassignment or integration process needs. 12/

(4) Some increase in the use of ESAA funds for human relations activities was noted in the late 1970s. Such activities have been associated with improved intergroup relations. 13/

The Education Amendments of 1978 addressed some of the criticisms of ESAA. Among its provisions, the Act (1) deleted one of ESAA's purposes--to aid students in overcoming the educational disadvantages of minority group isolation; (2) reduced the amount of funding distributed under the State allotment formula; and (3) made the recentness of desegregation plans a primary eligibility factor.

With the consolidation of ESAA, school districts will still be able to pursue activities formerly authorized by ESAA. A review of ESAA evaluations suggests that the activities carried out under the act have had an inconsistent impact. As a result, if districts choose not to undertake such activities with their consolidated funding, the effects on school desegregation are not readily evident. To an unknown extent, the Education Amendments of 1978 may have affected the assessment of ESAA's relative impact.

Pre-grant Reviews and Waivers

As has been delineated, applicants for ESAA funds undergo reviews by the Office for Civil Rights (OCR) to determine if they are in compliance with specific

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11/ Smith, Stephen M. An Assessment of Emergency School Aid Act (ESAA) Program Operations. Applied Urbanetics, Inc. 3 Volumes. September 1978; U. S. General Accounting Office. Better Criteria Needed for Awarding Grants for School Desegregation. January 20, 1978.

12/ Ibid.

13/ Department of Education. Annual Evaluation Report. Volume II. Fiscal Year 1980.

non-discriminatory requirements and if they are implementing an eligible plan. A district may have its eligibility waived if it undertakes specific desegregative actions. Clearly, an assessment of the impact of ESAA on school desegregation must consider the effects of the review and waiver process. 14/ The key question is the extent to which school districts modify their behavior in order to be eligible to receive ESAA funds.

Perhaps the most obvious indicators of the opportunity for applicants to change their practices are the statistics on the number of applicants declared ineligible and those which seek and receive waivers. As described earlier, an ineligible district can be granted a waiver of that ineligibility only if it provides assurances and evidence that specific steps have been taken to remedy the specific violations. Thus, to the extent that OCR vigorously enforces and monitors this process, the granting of waivers should mean that the LEAs in question have addressed their violations. As is shown in the table below for FY 1975 through 1981 (the years for which we have data), approximately 69 percent of the net number of ineligible applicants (ineligibles minus those whose ineligibility was revoked) sought and received waivers. These are the districts which presumably modified their practices, policies or procedures to conform to the program's non-discriminatory requirements.

14/ One evaluation of ESAA notes:

> Of the Department of Health, Education and Welfare (Office of Education) programs concerned with equal educational opportunity (Title I and Bilingual Education Title VII, Elementary and Secondary Education Act), ESAA is the only grant program that requires a pre-award review of an LEA's civil rights compliance status.

Smith, An Assessment of the Emergency School Aid Act (ESAA) Programs Operations, p. 30.

TABLE III. ESAA Ineligible Applicants and Waivers, 1975-1981

Fiscal Year	Number Ineligible	Number Whose Ineligible Status Was Revoked*	Net Ineligible	Waivers Granted	Percent of Net Ineligible Waived
1975	84	3	81	42	52%
1976	134	23	111	84	76%
1977	188	26	162	110	68%
1978	171	18	153	106	69%
1979	92	7	85	57	67%
1980	86	8	78	62	79%
1981	66	5	61	41	67%
Total	821	90	731	502	69%

* An ineligibility determination can be revoked if the applicant demonstrates that the determination was in error.

Source: Office for Civil Rights. Department of Education. Unpublished annual tabulations of statistics on ineligible applicants.

The number of applicants reviewed annually by OCR in the last 3 years has been somewhat less than 700, meaning that the number of applicants required to remedy violations in the waiver process has been less than 10 percent of the total number of applicants. 15/ OCR has found the majority of applicants at the time of their application to be in compliance with the non-discriminatory provisions.

The precise impact of the waiver process cannot be measured solely by the number of districts waived. The granting of a waiver should mean that the school district involved addressed its discrimination violations. This process apparently does translate into actual steps to end discrimination. For example, during FY 1974 and FY 1975, the accomplishments of the pre-grant review and waiver

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15/ Office for Civil Rights. Annual Operating Plans for 1978, 1979, 1980, and 1981. Published in the Federal Register.

requirements were said to have included the reassignment of some 244,000 children from racially-isolated classes. 16/

Another aspect of the pre-grant review and waiver process meriting attention is its effectiveness as a desegregation tool in comparison to OCR enforcement proceedings under Title VI of the Civil Rights Act of 1964, prohibiting discrimination on the basis of race, color, or national origin in federally-funded programs. The ESAA procedure, according to OCR staff, is capable of securing prompter LEA action on a discrimination violation than is the Title VI procedure which involves a more extensive hearing process. 17/ Under ESAA, OCR need not be concerned with the intent behind a school district's discriminatory actions as it would in a Title VI proceeding. The disproportionate impact on minority group individuals of particular policies, procedures, or practices is sufficient for a determination of ESAA ineligibility. 18/ By applying for ESAA funds, a school district itself initiates the OCR review process. In addition, compliance can mean Federal financing of certain of the district's activities. The role that this financial "carrot" plays in securing compliance is not measureable, yet it is not inconceivable that the prospect of securing ESAA grants of several hundred thousand or even several million dollars has

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16/ Testimony by David S. Tatel, then Director of the Office for Civil Rights. Hearings before the House Subcommittee on Elementary, Secondary, and Vocational Education, Part 4: Emergency School Aid Act, June 14, 1977.

17/ Discussions with OCR staff during December 1981.

18/ *Board of Education of New York City* v. *Harris*, 444 U.S. 130. In this Supreme Court decision of November 28, 1979, Justice Blackmun, for the majority, wrote:

> It does make sense to us that Congress might impose a stricter standard under ESAA than Title VI of the Civil Rights Act of 1964. A violation of Title VI may result in a cutoff of all federal funds, and it is likely that Congress would wish this drastic result only when the discrimination is intentional.

prompted LEAs to comply more readily to these desegregation demands. According to the former Director of OCR, David Tatel,

> In requiring compliance with specific civil rights provisions as a precondition to the award of Federal financial assistance, the ESAA program has a significant role in the prevention and elimination of unlawful discrimination.

He concluded,

> It is our judgment that the pre-grant conditions of the kind contained in the ESAA statute are among the most effective ways of enforcing nondiscrimination provisions of law and ensuring equal opportunities for the beneficiaries and potential beneficiaries of Federal financial assistance. 19/

The financial "carrot" is not the only incentive for compliance with ESAA standards. As stated above, a school district voluntarily applies for ESAA funds, but once that application is made the district has in fact triggered more than a review by OCR of its compliance with the ESAA non-discriminatory standards. Under court order, OCR must review the compliance with Title VI of the Civil Rights Act of 1964 of any district found ineligible for ESAA and not waived. 20/ Compliance with Title VI is initially sought on a voluntary basis. If OCR fails to secure voluntary compliance, it must start proceedings for mandatory compliance. At stake is a school district's eligibility for all Federal funding.

In practice, the performance of OCR in carrying out the pre-grant review and waiver procedure has apparently not been wholly consistent or effective.

19/ Testimony before the House Subcommittee on Elementary, Secondary, and Vocational Education, Part 4: Emergency School Aid Act, June 14, 1977, pp. 31-32.

20/ In 1977, the *Adams* v. *Califano* suit along with several others charging HEW with non-enforcement of its civil rights responsibilities was settled by the order of the U.S. District Court for the District of Columbia. That order provides that if a district is found to be ineligible for ESAA and either does not apply for a waiver or is not granted one when it does apply, the Department has to enforce Title VI in that district in accordance with a specified time schedule.

In a series of case studies for the Department of Health, Education, and Welfare (HEW) in the mid-1970s, Applied Urbanetics, Inc., analyzed the experiences with ESAA of selected school districts in New York and New Jersey. The Applied Urbanetics researchers found that one case study district had been declared eligible for two years when none of its schools were being affected by a desegregation plan. In addition, the regional OCR office recommended that for FY 1977 all but one of the case study districts be sent letters of ineligibility; but the central OCR office failed to authorize those letters. Instead, the regional office sent the districts letters of findings listing the discrimination originally found by by the regional office and requesting that the districts justify this discrimination as the result of sound educational policy. All districts receiving a letter of findings from the regional office were eventually found to be eligible for ESAA funding. The Applied Urbanetics study ultimately concluded that:

> Although the [OCR] eligibility review caused the case study districts to change district policies to remedy past discrimination, the procedures used by OCR to determine plan eligibility and civil rights compliance are not always reliable. 21/

In summary, the consolidation of ESAA terminates the pre-grant review and waiver procedure, which as established by law and regulation, requires school districts to take certain desegregative actions as a precondition for funding. In the future, districts undertaking ESAA-like activities with their ECIA funds will not have to demonstrate in advance that their practices meet specific nondiscriminatory standards. It is not known to what extent districts have in fact been prompted by ESAA requirements to modify their practices, but the impetus contained in ESAA for such change has been eliminated by ECIA.

21/ Ferrara, Lynette et al. The ESAA Basic and Pilot Programs in Region II, Volume II--Case Studies. Applied Urbanetics, Inc. November 1979. p. 52. For another assessment that OCR is not consistent in its application of the ESAA standards, see General Accounting Office, Better Criteria Needed for Awarding Grants for School Desegregation, pp. 5-6.

Financial Implications of Consolidation

As is shown in Table II above, funding for the ESAA between 1973 and 1980 was never less than $215 million nor more than $300.5 million. Rescissions in 1981 cut ESAA funding to $149.2 million. One clear impact of the consolidation of ESAA is the elimination of these funds specifically targeted to the purposes of the program. In their place, ECIA provides a general pool of funds not targeted to specific purposes, but available for a variety of uses as determined by SEAs and LEAs. The question pursued below is whether the districts which receive sizeable amounts of ESAA funding will be able to finance their ESAA activities in future years at these same levels from their ECIA funds, if they so choose. No definite answer is possible given the flexibility SEAs have for fashioning the formula for alloting a State's ECIA funds to its LEAs. Nevertheless as is delineated below, at a minimum some districts will not be able to carry on their present ESAA activities at their current levels using ECIA funds. To the extent that the various authorized activities under ECIA are pursued with relatively equal levels of spending, ESAA activities as but one set of such activities will lose funding because ESAA was one of the largest programs in terms of annual appropriations consolidated under Chapter 2 of ECIA.

The FY 1982 Further Continuing Appropriations Act (P.L. 97-92) provides $490 million for the Chapter 2 consolidated program less approximately 4 percent in an additional budget cut. When the ECIA State allotment formula is applied to this funding level, State-by-State distributions of ECIA funding can be estimated. These State allotments can then be compared to the total ESAA funding for selected LEAs in those States.

TABLE IV. ESAA FY 1981 Funding for Selected Districts Compared to Statewide ECIA Funding for FY 1982*

School District	Total FY 1981 ESAA Funding	Estimated FY 1982 ECIA Statewide Funding
1. Los Angeles	$ 6,958,231	$40,889,000 (California)
2. San Diego	2,954,339	40,889,000 (California)
3. New Castle County (Wilmington)	3,276,218	2,187,000 (Delaware)
4. Detroit	3,334,817	18,805,000 (Michigan)
5. Kansas City	3,256,597	9,110,000 (Missouri)
6. St. Louis	4,690,122	9,110,000 (Missouri)
7. Buffalo	6,574,127	33,178,000 (New York)
8. Rochester	2,692,693	33,178,000 (New York)
9. Cleveland	3,954,820	21,122,000 (Ohio)
10. Columbus	3,171,562	21,122,000 (Ohio)
11. Philadelphia	2,909,555	21,655,000 (Pennsylvania)
12. Austin	1,819,455	25,974,000 (Texas)
13. Dallas	1,770,012	25,974,000 (Texas)
14. Harlandale	1,414,730	25,974,000 (Texas)
15. Seattle	3,874,805	7,134,000 (Washington)
16. Milwaukee	6,866,250	9,293,000 (Wisconsin)

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* These are the districts receiving over $1 million in FY 1981 Basic Grant awards. The total funding levels shown include not only Basic Grants but Out-of-Cycle Grants and Magnet School Grants as well.

Source: Department of Education. Emergency School Aid Act Fiscal Year 1981. October 20, 1981 (revised); and Congressional Research Service estimates of State-by-State distribution of FY 1982 ECIA funding.

Clearly, the New Castle County, Delaware school district which includes Wilmington will not be able to maintain its present ESAA activities with ECIA funds because its FY 1981 ESAA funding exceeds the estimated ECIA allotment for Delaware by 50 percent. Table IV also indicates that other districts may have to resort to alternative sources of funding as well as if they intend to continue their present ESAA activities. For example, St. Louis and Kansas City received a combined $7,946,719 in FY 1981 ESAA funding. That is more than 85 percent of the total estimated FY 1982 ECIA allotment for all of Missouri. 22/ Rochester and Buffalo, according to the figures in Table IV, may also fall into this category. Their combined FY 1981 ESAA funding is 28 percent of the estimated FY 1982 ECIA allotment for all of New York State. Other such districts are Seattle, Washington, and Milwaukee, Wisconsin. Given that funding under ECIA is likely to be distributed among all of a State's LEAs, and that ESAA activities must compete with a host of other authorized activities, it should be anticipated that school districts making major use of ESAA funds will have to turn to non-Federal sources of funding if they intend to maintain those activities. It must be noted that many more districts inclined to undertake ESAA-like activities may find themselves able to do so with ECIA funds because such funds will be more widely distributed among school districts than was ESAA funding. Also, ECIA does provide a mechanism which, if larger annual appropriations were to be made available, could enable districts with large ESAA programs to maintain them if they so choose.

22/ The St. Louis situation is particularly important as an illustration of a problem that may attend the consolidation of ESAA. In the litigation known as *Liddell* v. *Board of Education of the City of St. Louis*, a Federal district court approved a desegregation plan for the city schools (491 F. Supp. 351, May 21, 1980) and made the city school board responsible for paying half the costs associated with that plan (the State was required to pay the other half). Although a sizeable portion of the city's share was to come from a building service fund, the remaining portion was to come from ESAA and from other Federal programs. On February 13, 1981, the Court of Appeals rejected appeals from the lower court's decision. Appellants contended that the lower court erred in not finding that the United States contributed to the city's school segregation and, as a result, should be required to pay a substantial portion of the desegregation costs. The Court of Appeals affirmed the lower court, arguing, at one point, that there was no need to order the United States to pay for part of the desegregation plan because in 1980-81 it provided over $7 million in ESAA funds to St. Louis and "the evidence in the record gives us no reason to believe that similar funding will not be available to continue implementation of the plan for the forseeable future." (Eighth Circuit Court of Appeals, No. 80-1458, February 13, 1981).

CONCLUSION

The ESAA has distributed over $2 billion since FY 1973 to help school districts meet the special needs attendant upon the desegregation of their schools. It is the major Federal grant program supporting desegregation activities. Effective October 1, 1982, ESAA ceases to exist as a separate program and its activities are included among the activities authorized for funding under Chapter 2 of ECIA.

Any definitive statement about the impact of ESAA consolidation is highly problematic. As is delineated above, the various activities funded by ESAA have received mixed evaluations in terms of their effectiveness. What renders any effort to assess the impact of the ESAA program particularly difficult is the very brief period for which ESAA has functioned as modified by the Education Amendments of 1978. In essence, what is being consolidated are various programs whose precise impact is unknown.

ESAA's impact on school desegregation may rest less with its programs and more with the conditions which applicants have to meet to be eligible for funding. In the eyes of some observers, the ESAA pre-grant review and waiver procedures have been effective desegregation tools for the OCR to apply in the affected school districts (a relatively small proportion of all school districts). To others, OCR implementation has been unreliable. Nevertheless, ECIA eliminates this mechanism for seeking school districts' compliance with specific, congressionally-mandated non-discrimination requirements as a precondition for funding.

Finally, the consolidation signals for some districts a change in funding sources or a cut-back in ESAA activities. The dimensions of this impact remain unclear at this time, but the structure of the consolidated grant program suggests that ESAA activities will be hard pressed in competition with other authorized activities for limited funding.

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January 5, 1982

TO : House Judiciary Subcommittee on Civil and Constitutional Rights
Attention: Janice Cooper

FROM : James B. Stedman
Specialist in Education
Education and Public Welfare Division

SUBJECT : Private Elementary and Secondary School Enrollment,
1970 to the Present

In response to your request on this subject, we have prepared the following memorandum.

According to the National Center for Education Statistics (NCES), the total enrollment in private elementary and secondary schools in the 1970-71 school year was 5,143,182. The most recent NCES survey shows 5,028,865 students in private schools on October 1, 1980. Enrollments in the private sector as measured by NCES apparently dropped by slightly more than 100,000 students or 2 percent over the decade.

Several points should be made about these figures. First, data collection from the private elementary and secondary sector is difficult at best. Some groups of schools refuse to provide statistics. This is particularly true for certain fundamentalist religious schools which, according to some reports, are experiencing substantial growth in their number of students and schools. Efforts to gather national data for this group of schools have been thwarted by school leaders' sensitivity to any involvement with government.

Second, different groups of schools experienced markedly different rates of enrollment change over the decade. Particularly important are the major enrollment losses in the Catholic sector in the late 1960s and early 1970s. Catholic school students constituted an estimated 84 percent of the private school students in 1970 and only 63 percent in 1980. In the decade of the 1970s, the Catholic sector lost over a million students, a drop of some 27 percent. Given the marginal decline in the total private sector enrollment for this same period, it is evident that enrollment in the non-Catholic schools in the private sector has been growing.

Finally, it should be noted that the public sector has been losing enrollment in recent years at a faster rate than the private sector overall. Between 1970 and 1980, public school enrollment dropped 11 percent while private school enrollment fell by 2 percent. Thus, the private share of total elementary and secondary enrollment has been growing. It was approximately 10 percent in 1970 and now stands at approximately 11 percent.

If we can be of additional assistance, please call.

Appendix 2

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U.S. Department of Commerce
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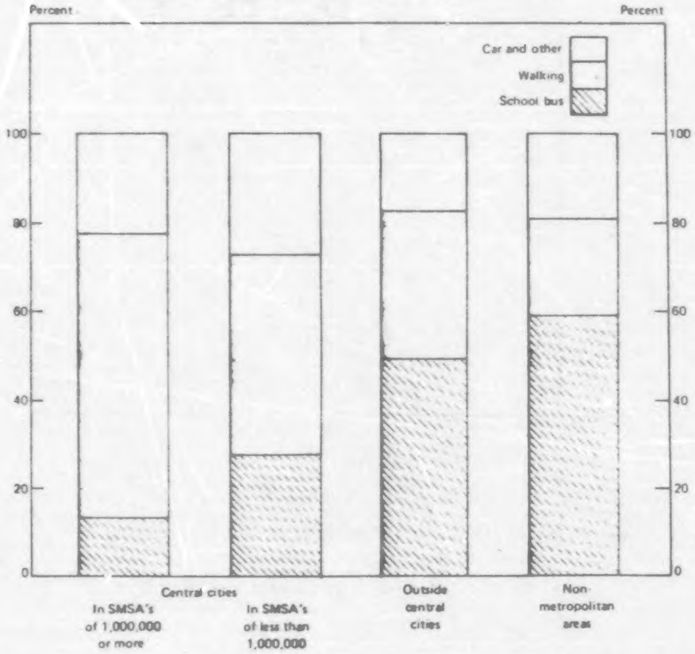
Series P-20, No. 342
Issued September 1979

Travel to School: October 1978

Mode of Transportation to School, by Residence: October 1978



CURRENT POPULATION REPORTS

Population Characteristics

Series P-20, No. 342
Issued September 1979

Travel to School: October 1978

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Luther H. Hodges, Jr.,
Under Secretary
Courtenay M. Slater,
Chief Economist

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This report was prepared by **Larry E. Suter**, Chief, Education and Social Stratification Branch, Population Division. Statistical testing was performed by **Andrea E. Adams**. **Brenda R. Jeffries** provided valuable statistical assistance in the preparation of the tables. Sampling review was conducted by **Deborah Lorah** of the Current Surveys Branch of the Statistical Methods Division. Overall supervision was provided by **Charles E. Johnson, Jr.**, Assistant Division Chief (Demographic and Social Statistics Programs) and **Paul C. Glick**, Senior Demographer, Population Division.

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Symbols Used in Tables

–	Represents zero or rounds to zero.
B	Base less than 75,000.
. . .	Not applicable.
NA	Not available.
<	Less than.

Travel to School: October 1978

INTRODUCTION

The means of travel from home to school have changed drastically during the past 50 years because of school consolidations, the growth of population in areas surrounding cities, and the availability of the automobile. The major change has been the increased use of school buses for transportation to school. According to information provided by school systems, the proportion of public school students transported to school at public expense, i.e., by bus, increased gradually from only 7 percent in 1929 to 55 percent in 1976 (see appendix A). Future changes in the means of travel and the distance traveled to school may be affected by changes in the growth of population in nonmetropolitan areas, decreases in family size (causing the closing of some neighborhood schools), or changes in energy usage. The redistribution of children to achieve racial balance in school systems may also affect the number of children who travel to school by bus rather than by walking or by other means of public transportation.

This report is the first statistical study published by the Census Bureau to describe the distance, time, and mode of transportation of students enrolled in school from the nursery school level through college, as well as for those in vocational schools. Previous reports have been published on commuting to work only. The information was obtained from members of households who were interviewed in the October 1978 Current Population Survey and is presented in this report by characteristics of the student, such as grade level, race, metropolitan residence, and type of school. These statistics may be useful in discussing efficient energy usage and understanding the relationship between residential living patterns and choice of school transportation. They should also be useful as a basis for comparison of changes in transportation patterns in future surveys as the number of children in school changes during the 1980's. A summary of the characteristics of students who use each mode of travel is shown in table A.

In October 1978, 61 million students under 35 years old were enrolled in some type of school: nursery school, kindergarten, elementary school, high school, college, or vocational school (table 1). This number is three-fifths as large as the United States labor force. While 4 million students lived at school, some means of transportation from home to school was required for the 57 million school students who lived at home. About 20 million students arrived at school by school bus, 18 million students were driven, or drove, to school in an automobile; about 2 million took a public bus; and less than a million students rode a bicycle (table 1). About 14 million students were able to walk to school.

Most students lived very close to the school they were attending and thus spent relatively little time traveling to school. About 31 percent lived within 1 mile of school, and only 12 percent lived 10 miles or more from their school. About one-half of the students spent less than 15 minutes traveling from home to school; however, about 7 percent of the students spent 45 minutes or more each day traveling one way to school. These distances traveled and time spent traveling to school are much less than the average for workers traveling to their jobs.[1]

Mode of transportation, travel time, and distance to school are very different for students in lower grades than for those in higher grades. For example, nursery school children were usually driven to school (78 percent), whereas elementary school students (first through eighth grades) and high school students usually rode school buses. About one-third of elementary school children walked to school, but around one-fifth of high school students walked. A very high proportion of high school students arrived at school by car (31 percent) compared with students in other grades (e.g., 14 percent of the seventh and eighth grades), probably because of the greater distances to high school as well as the ability of many students of high school age to drive themselves to school. (According to a 1969 survey conducted for the Department of Transportation, 7 percent of high school students drove themselves and 20 percent were driven by someone else.) At the college level, 21 percent of the students lived on the campus and required no means of transportation other than that provided on campus. Of the college students living at home, the automobile was the chief mode of transportation to college (80 percent); only 11 percent traveled by public or school bus. College students spent much more time traveling to school than did students in grade school. The median travel time for college students was 23 minutes, while the time for elementary school students was less than 15 minutes. The median distance was 9 miles, while the distance for elementary school students was 2 miles. Although one third of the college students lived within 5 miles of a college campus, 11 percent commuted 25 miles or more to campus.

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[1] "The Journey to Work in the United States: 1975," **Current Population Reports**, P-23, No. 99.

Table A. Mode of Travel to School by Characteristics of Elementary and High School Students

(Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

Characteristics	Total[1]	School bus	Walk	Car	Public bus
Total population	48,778	19,749	13,978	11,637	1,578
Percent	100.0	100.0	100.0	100.0	100.0
Race:					
White	82.7	84.5	77.3	89.6	52.7
Black	15.2	14.0	20.2	8.1	42.0
Spanish origin	6.3	3.0	10.3	6.8	10.1
Age:					
3 to 5 years	10.0	6.6	7.3	20.6	3.2
6 to 13 years	57.0	62.8	68.2	38.8	26.4
14 to 17 years	30.9	29.6	23.2	37.0	63.6
18 years and over	2.1	1.1	1.3	3.6	6.9
Residence:					
In central cities	66.3	55.3	78.5	66.4	91.9
In SMSA's of 1 million or more	13.3	4.0	23.7	10.2	62.6
In SMSA's of less than 1 million	13.1	7.9	16.6	17.3	13.1
Outside central cities	39.9	43.3	38.2	38.9	16.2
Nonmetropolitan	33.7	44.7	21.5	33.6	8.2
Level of school:					
Nursery school	3.7	0.9	1.3	12.0	1.2
Kindergarten	6.1	5.7	5.6	8.6	1.9
Elementary	58.4	64.2	70.0	39.6	26.9
High school	31.7	29.2	23.0	39.9	70.0
Control of school:					
Public	87.3	93.7	92.3	71.8	81.2
Private	12.7	6.3	7.7	28.2	18.9
Distance traveled to school:					
1 mile or less	45.0	16.2	95.8	35.8	
2 to 4 miles	30.0	43.9	4.0	35.8	
5 to 9 miles	15.1	25.8	0.1	15.1	
10 miles or more	7.6	13.4	-	7.1	
Time traveled to school:					
Less than 15 minutes	53.2	27.2	77.2	64.9	
15 to 29 minutes	27.9	38.7	19.8	21.4	
30 minutes or more	16.7	33.4	2.8	7.7	

[1] Total includes some types of transportation (such as bicycle, 715,000) not shown separately.

CHANGES IN THE MODE OF TRANSPORTATION SINCE 1969

The changing residential patterns of the population and the gradual consolidation of small schools into larger districts are the primary reasons for the widespread use of the bus as a means of transporting children to school. For example, the number of elementary schools declined from 238,000 in 1929 to only 63,000 in 1975 mainly because of the closing of many single teacher schools (see appendix A).

Undoubtedly, other factors have had some effect on the increased reliance on public transportation to schools during the 1929-75 period. For example, lower birth rates in the 1960's and early 1970's forced some school systems to close neighborhood schools which were within walking distance of children enrolled in primary grades. Residential patterns of Blacks and Whites were also responsible for an increased reliance on busing as a means of transporting children to racially balanced schools during the 1970's; although, if any increase in the use of busing for integration purposes occurred, it cannot be reliably distinguished from the increase in busing for all other purposes. The movement of the population from cities to outlying suburbs during the 1950's might also have contributed to the greater reliance on public school buses since other means of public transportation were not as available in suburbs as in cities.

In 1969, the Bureau of the Census conducted a study of transportation of school children for the Department of Transportation. The survey provided statistics on the mode, distance, and time traveled to school. These data were collected in the same manner as the 1978 CPS data used in this report and can be compared with that survey to examine whether changes in transportation of school children have resulted in greater distances traveled or merely a shifting of the mode of transportation (see table B). During the period between these two surveys, the number of children enrolled in kindergarten through sixth grade declined from 29 million to 24 million students because of the declining fertility levels of the 1960's and 1970's. The proportion of these elementary school students who arrived at school by school bus increased from 37 percent in 1969 to 43 percent in 1978. A slight increase occurred in the proportion of elementary school students who were driven to school in an automobile. A smaller percentage walked or rode a bicycle to school in 1978 than in 1969, 36 percent versus 49 percent.

There is some evidence that junior high school students (seventh and eighth grades) were more likely to take a school bus to school in 1978 than in 1969, but a smaller proportion walked. At the high school level, no significant increase in the proportion using any mode of travel occurred during the period.

The changes in the mode of transportation to school from 1969 to 1978 are reflected in the distance school students in kindergarten through the sixth grade lived from school. The proportion of the students in kindergarten through the sixth grade who lived 3 miles or more from school increased from 25 percent in 1969 to 32 percent in 1978, while the proportion who lived within 1 mile from school or within easy walking distance remained the same (45 percent). Because more students lived farther from school in 1978 than in 1969, a higher proportion required bus or automobile transportation.

Surprisingly, however, changes in time spent traveling to and from school appear to be almost insignificant. The travel time of children enrolled in the elementary grades was usually less than one-half hour in both 1969 and 1978; only about 15 percent of the children reportedly took one-half hour or more to reach school in both years. There appeared to be a small increase in the proportion taking an hour or more, however. Thus, while children were spending only a relatively short time traveling to school in both 1969 and 1978, an increased proportion of elementary school children traveled longer distances and spent more time traveling in 1978.

The distances traveled by junior high and senior high school students in 1978 were not greatly different from those in 1969.

METROPOLITAN RESIDENCE

The distance traveled between home and school is shorter for persons living in areas of population concentration, such as in

Table B. Mode of Transportation, Distance, and Time Traveled to School, by Grade Level: 1978 and 1969

(Numbers in thousands. For meaning of symbols, see text)

Mode, distance and time of travel	Kindergarten to 6th grade		7th and 8th grades		High school	
	1978	1969	1978	1969	1978	1969
Number enrolled	24,026	28,951	7,453	8,113	15,475	14,553
Percent	100.0	100.0	100.0	100.0	100.0	100.0
Mode of transportation:						
School bus	43.0	37.3	48.7	42.3	38.3	37.7
Public transportation	1.0	0.8	3.1	2.7	7.3	8.1
Car	19.1	12.2	14.3	12.3	30.9	27.4
Walk or bicycle	36.6	49.3	33.5	41.6	22.8	26.4
Other mode	0.3	0.4	0.4	1.1	0.7	0.4
Distance traveled to school:						
Less than 1 mile	44.9	45.2	30.2	26.3	20.3	16.6
1.0 to 1.9 miles	11.1	17.6	13.1	18.9	12.2	16.6
2.0 to 2.9 miles	12.3	12.4	16.1	17.6	17.2	19.8
3.0 miles or more	31.7	24.8	40.5	37.2	50.3	47.0
Time traveled to school:						
Less than 30 minutes	85.0	85.1	80.2	76.7	79.6	77.0
Less than 15 minutes	60.0	(NA)	45.9	(NA)	43.7	(NA)
15 to 29 minutes	23.8	(NA)	32.5	(NA)	33.3	(NA)
30 to 44 minutes	10.1	10.8	12.5	16.5	13.2	15.9
45 to 59 minutes	3.2	3.5	4.8	6.5	4.1	5.7
60 minutes or more	1.8	0.6	2.5	0.3	3.0	1.4

Source (1969 data): U.S. Department of Transportation, Office of Highway Planning, Nationwide Personal Transportation Study: Transportation Characteristics of School Children, Report No. 4, 1972.

cities and suburbs, than for those living in the more sparsely populated nonmetropolitan areas. Opportunities for the use of public transportation are also more common in the cities. Thus, the area of residence very strongly determines the choice of transportation available to students and the distance they must travel to school. In 1978, regardless of residence, almost all elementary school children traveled to school by school bus, by automobile, or on foot—the choice of mode depended on whether the student lived in a city, suburb, or nonmetropolitan area (table C). For example, among children who lived in central cities of metropolitan areas with a population of 1 million or more, over three-fourths walked to school and nearly one-fifth took the bus; among those in nonmetropolitan areas, three-fifths rode a school bus and one-fifth walked.

The distance traveled to school was considerably longer for those living in nonmetropolitan areas than for those in other areas (table 4). The median distance traveled to school was about 3 miles for elementary school children in nonmetropolitan areas, about 2 miles for children living in suburban areas, and less than 1 mile for those living in central cities. Only about 6 percent of the elementary school children reported that they traveled more than 10 miles to school. Since the respondents were instructed to estimate the distance actually traveled, and not the direct distance between home and school, some of the persons reporting these large distances may have used a school bus, or other means, through districts surrounding their neighborhood. Others who reported this distance may have been traveling long distances to schools outside their neighborhood to achieve racially integrated schools.

Type of residence also affects the transportation of high school students since they are more likely to use public transportation, such as a public bus, or to travel by car and less likely to walk than are elementary school children. High school students who live in central cities of large SMSA's are very likely to travel to school by public bus (37 percent) while only a few of them (10 percent) travel by school bus. In nonmetropolitan areas, only 1 percent of the high school students ride a public bus, whereas 48 percent travel by school bus.

RESIDENCE AND RACE

Black children comprised 15 percent of all elementary school children in 1978, however, Black children accounted for 35 percent of the elementary students who rode a public bus and 20 percent of those who walked to school. Black children accounted for smaller proportions of those who rode a school bus (13 percent) or who traveled by car (9 percent). Some of the differences in the choice of transportation for White and Black elementary school students can be attributed to the higher proportion of Blacks who lived in central cities and used public buses more often than school buses to travel to school. Overall, Black elementary school children were less likely than the White children to ride a school bus, but Black students living in central cities of metropolitan areas and in nonmetropolitan areas were either as likely or more likely than White students to take a school bus (table C). White children in these areas were more likely than Black children to be driven to school by car.

Black students in high school were as likely as their White counterparts to ride a school bus, but were more likely to walk or to ride a public bus, and less likely to ride in or drive a car. About one third of White high school children were either driven to school or drove a car to school themselves, compared with only one-ninth of the Black high school students.

The frequent use of a car as transportation for White school children at all grade levels compared with Black school children may result from more automobile ownership among White families rather than from their residence in less densely populated areas. White children were more likely than Black children to be driven to school in each residential area shown in table C (except for children living in the central city of metropolitan areas).

PUBLIC AND PRIVATE SCHOOL

Children who attended private schools were less likely to live near the school or to have school-bus transportation than were public school students (table D). At the elementary level, the median distance from home to school was 2.4 miles for private school children and 1.7 miles for public school children (table 2). About one-third of children in private elementary schools lived within 1 mile of school compared with 42 percent of public elementary school children.

Students in private high schools lived farther from their schools than those enrolled in private junior high schools or public high schools. The median distance traveled for children enrolled in private high schools was 5 miles compared with 2 miles for those in the seventh and eighth grades of private schools and 3 miles for public high school students. The distribution of distances between home and school were significantly different for private high school students and other students. Only about 28 percent of the school children in private high schools lived within 3 miles of the school they attended, compared with about one-half of the public high school students. The proportion of private high school children who lived at school was the largest of any category of students below the college level, 9 percent.

The greater distances traveled by private school students probably affected their mode of transportation to school. For example, fewer private school children than public school children could easily walk to school. The mode of transportation was also determined by the size of the community in which students were living since private elementary school students were much more likely to be living in the central cities of metropolitan areas than were public school students (43 percent compared with 24 percent).

Choices of transportation for public and private school students living in differing residential areas are shown in table D. Private school children living in the same type of residential areas as public school children were less likely to walk or to take a school bus to school than were public school children and much more likely to drive or be driven to

Table C. Mode of Transportation to School for Elementary and High School Students, by Race and Residence

(Numbers in thousands. Students living at home)

Mode of transportation, grade, and race	United States	Metropolitan areas				Nonmetropolitan areas
		Total	Central cities		Outside central cities	
			In SMSA's of 1 million or more	In SMSA's of less than 1 million		
NUMBER ENROLLED						
Elementary (grades 1 to 8):						
All races	28,490	18,710	3,790	3,689	11,232	9,780
White	23,524	15,040	2,099	2,751	10,191	8,484
Black	4,357	3,221	1,528	877	816	1,135
High school:						
All races	15,475	10,315	2,096	1,952	6,267	5,160
White	12,897	8,423	1,169	1,488	5,765	4,474
Black	2,276	1,660	844	417	399	615
PERCENT WALKING TO SCHOOL						
Elementary (grades 1 to 8):						
All races	34.8	41.9	64.0	45.2	33.4	21.1
White	32.5	38.8	61.4	45.2	32.4	21.3
Black	46.4	55.9	68.9	45.7	42.3	19.8
High school:						
All races	21.4	24.3	31.7	26.3	21.2	15.6
White	20.4	23.0	31.0	23.5	21.2	15.6
Black	26.6	31.1	33.4	35.3	22.1	15.0
PERCENT TAKING SCHOOL BUS						
Elementary (grades 1 to 8):						
All races	45.0	37.6	13.8	27.7	48.9	59.1
White	46.4	40.0	13.3	24.2	49.7	57.7
Black	39.7	29.0	14.5	40.0	44.5	69.9
High school:						
All races	38.3	32.8	10.4	22.8	43.4	49.3
White	38.5	34.2	10.3	20.2	42.7	46.5
Black	38.9	27.3	10.9	33.5	55.0	69.4
PERCENT TRAVELING BY CAR						
Elementary (grades 1 to 8):						
All races	16.4	16.3	15.8	22.9	14.4	16.4
White	17.5	17.5	20.3	26.4	14.5	17.4
Black	9.7	10.1	8.8	11.4	11.[illegible]	8.6
High school:						
All races	30.9	29.8	17.2	42.0	30.2	33.0
White	34.3	33.6	26.3	47.9	31.4	35.7
Black	11.7	10.6	5.0	20.3	12.2	14.8
PERCENT TAKING PUBLIC BUS						
Elementary (grades 1 to 8):						
All races	1.5	1.8	5.2	1.9	0.7	0.9
White	1.1	1.2	3.7	1.5	0.6	0.8
Black	3.5	4.4	7.1	2.6	1.3	1.0
High school:						
All races	7.3	10.8	38.4	6.7	2.8	0.6
White	4.4	6.5	28.9	5.5	2.2	0.6
Black	22.4	30.7	50.3	10.8	10.2	0.3

Table D. Mode of Transportation to School for Public and Private Elementary and High School Students, by Residence

(Numbers in thousands. Students living at home. For meaning of symbols, see text)

Mode of transportation, grade, and control of school	United States	Metropolitan areas				Nonmetropolitan areas
		Total	Central cities		Outside central cities	
			In SMSA's of 1 million or more	In SMSA's of less than 1 million		
NUMBER ENROLLED						
Elementary (grades 1 to 8):						
Public	25,252	16,011	2,954	3,147	9,909	9,242
Private	3,238	2,700	836	541	1,322	538
High school:						
Public	14,231	9,245	1,783	1,723	5,739	4,986
Private	1,244	1,070	313	229	528	174
PERCENT WALKING TO SCHOOL						
Elementary (grades 1 to 8):						
Public	35.8	44.1	69.4	48.4	35.2	21.4
Private	27.0	29.1	44.7	27.0	20.0	16.5
High school:						
Public	22.4	26.1	34.9	29.0	22.5	15.8
Private	8.5	8.2	13.0	5.5	6.4	10.6
PERCENT TAKING SCHOOL BUS						
Elementary (grades 1 to 8):						
Public	47.2	39.7	14.5	28.7	50.7	60.2
Private	27.7	25.2	11.2	21.4	35.5	40.3
High school:						
Public	39.7	34.0	10.6	23.5	44.3	50.1
Private	22.2	21.8	9.0	17.0	32.2	23.8
PERCENT TRAVELING BY CAR						
Elementary (grades 1 to 8):						
Public	13.3	12.4	10.3	18.8	11.0	14.9
Private	40.2	40.0	35.5	46.6	40.1	41.5
High school:						
Public	29.3	27.8	14.5	38.7	28.6	32.2
Private	49.7	48.1	32.8	67.0	49.0	60.3
PERCENT TAKING PUBLIC BUS						
Elementary (grades 1 to 8):						
Public	1.3	1.6	4.7	1.7	0.6	1.0
Private	2.9	3.4	7.2	2.6	1.4	-
High school:						
Public	6.5	9.8	37.7	6.4	2.2	0.6
Private	17.2	19.7	42.1	9.2	10.2	0.7

school. The differences in mode of transportation for public and private school children were greatest in suburban and nonmetropolitan areas, perhaps because private schools in those areas were less likely to provide bus transportation. The greater reliance of private school students on automobile travel in every residential area shown in table D may also be due to a higher income level of the families of private school children.

COLLEGE STUDENTS

In October 1978, approximately 9.8 million persons under 35 years old were enrolled in college and another 2.1 million persons were attending vocational schools. Of these 12 million college and vocational school students, 8.6 million were living at home and commuted to school for classes. Another 3.4 million lived at school and required no daily transportation from home. Most college students who traveled to school went by car (80 percent); the median distance traveled was about 7 miles, and the median time traveled was about 23 minutes.

The median number of miles traveled from home to college for full-time first- and second-year students in a 4-year college who were living at home was about the same as for those attending 2-year colleges full time (8 miles). However in determining this distance, the 1 million full-time 4-year college freshmen and sophomores who lived on campus while attending school were excluded.

Table 1. Mode of Transportation, Distance and Time Traveled to School for Students 3 to 34 Years Old: October 1978

(Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

Race, mode, distance, and time of travel	Total	Nursery school	Kinder-garten	Elementary school				High school	College	Vocational school
				Total	Grades 1 to 4	Grades 5 and 6	Grades 7 and 8			
ALL RACES										
Mode of Transportation										
Total, enrolled in school	60,719	1,824	2,989	28,490	14,119	6,918	7,453	15,475	9,838	2,103
Total, living at home	56,507	1,796	2,949	28,155	13,968	6,853	7,336	15,041	6,615	1,951
Walk	14,436	182	787	9,791	5,055	2,472	2,264	3,218	403	56
Car	18,335	1,395	993	4,605	2,386	968	1,051	4,642	5,292	1,406
School bus	19,810	183	1,125	12,676	5,970	3,136	3,570	5,767	51	10
Public bus	2,417	19	30	425	108	89	227	1,103	711	128
Bicycle	859	6	1	570	202	171	196	209	71	2
Other mode and not reported	649	11	12	91	46	20	26	100	87	349
Living away from home	4,213	28	40	335	151	64	119	436	3,223	153
Percent of those living at home	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	25.5	10.1	26.7	34.8	36.2	36.1	30.9	21.4	6.1	2.9
Car	32.4	77.7	33.7	16.4	18.5	14.1	14.3	30.9	80.0	72.1
School bus	35.1	10.2	38.1	45.0	42.7	45.7	48.7	38.3	0.8	0.5
Public bus	4.3	1.1	1.0	1.5	0.8	1.3	3.1	7.3	10.7	6.6
Bicycle	1.5	0.3	-	2.0	1.4	2.5	2.7	1.4	1.1	0.1
Other mode and not reported	1.1	0.6	0.4	0.3	0.3	0.3	0.4	0.7	1.3	17.9
Distance Traveled[1]										
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	30.7	27.7	42.6	41.3	46.4	44.7	30.2	20.3	8.3	17.7
1 mile	10.6	12.3	11.9	11.5	11.1	10.8	13.1	12.2	4.0	4.0
2 miles	13.6	17.5	12.3	13.3	12.1	12.5	16.1	17.2	7.8	7.3
3 to 4 miles	15.8	18.4	13.0	16.2	12.7	13.9	17.4	19.9	16.8	13.2
5 to 9 miles	16.7	17.5	13.9	13.2	11.8	13.6	15.5	19.8	24.1	22.5
10 to 14 miles	6.3	3.3	4.0	4.1	3.7	3.9	5.0	6.4	15.4	11.3
15 to 24 miles	4.2	2.7	1.8	2.0	1.7	2.4	2.1	3.4	15.0	12.2
25 miles or more	2.0	0.4	0.5	0.4	0.4	0.2	0.5	0.8	10.6	9.7
Median (miles)	2.6	2.6	1.6	1.8	1.3	1.7	2.4	3.0	9.1	6.8
Time Traveled[1]										
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	51.1	74.6	65.6	56.8	61.7	57.2	46.9	45.2	29.8	41.5
15 to 29 minutes	29.7	19.1	21.9	26.7	23.8	25.8	33.1	34.4	36.9	22.4
30 to 44 minutes	12.2	4.0	8.7	10.8	9.8	11.0	12.5	13.2	18.9	16.0
45 to 59 minutes	4.2	1.6	2.1	3.7	3.0	3.9	4.8	4.1	7.6	5.1
60 to 89 minutes	2.6	0.8	1.3	1.8	1.5	1.8	2.3	2.7	5.3	3.4
90 minutes or more	0.6	-	0.2	0.2	0.2	0.2	0.2	0.3	1.6	1.5
Median (minutes)	<15	<15	<15	<15	<15	<15	16.4	17.1	23.2	18.9
WHITE										
Mode of Transportation										
Total, enrolled in school	50,667	1,456	2,452	23,524	11,615	5,760	6,169	12,897	8,514	1,825
Total, living at home	47,052	1,437	2,423	23,289	11,508	5,695	6,086	12,541	5,673	1,689
Walk	11,182	89	600	7,560	3,873	1,897	1,790	2,560	330	44
Car	16,426	1,221	840	4,069	2,266	848	954	4,303	4,765	1,249
School bus	16,736	106	953	10,801	5,071	2,714	3,016	4,833	34	8
Public bus	1,321	7	21	248	70	56	122	555	427	62
Bicycle	806	6	1	536	190	162	184	194	64	2
Other mode and not reported	564	10	8	75	38	17	20	96	71	325
Living away from home	3,616	18	29	236	107	66	64	355	2,841	136
Percent of those living at home	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	23.8	6.2	24.8	32.5	33.7	33.3	29.4	20.4	5.8	2.6
Car	34.9	85.0	34.7	17.5	19.7	14.9	15.7	34.3	83.6	73.9
School bus	35.6	[illegible]	39.3	46.4	44.1	47.7	49.6	38.5	0.6	0.5
Public bus	2.8	0.5	0.9	1.1	0.6	1.0	2.0	4.4	7.5	3.7
Bicycle	1.7	0.4	-	2.3	1.7	2.8	3.0	1.5	1.1	0.1
Other mode and not reported	1.2	0.7	0.3	0.3	0.3	0.3	0.3	0.8	1.1	19.2

See footnotes at end of table.

Table 1. Mode of Transportation, Distance and Time Traveled to School for Students 3 to 34 Years Old: October 1978—Continued

(Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

Race, mode, distance, and time of travel	Total	Nursery school	Kinder-garten	Elementary school				High school	College	Vocational school
				Total	Grades 1 to 4	Grades 5 and 6	Grades 7 and 8			
WHITE--Continued										
Distance Traveled[1]										
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	29.8	24.7	41.1	40.1	45.2	40.9	29.6	20.3	8.0	18.6
1 mile	10.5	12.2	12.0	11.6	11.1	10.8	13.1	11.8	6.1	3.9
2 miles	13.8	18.5	12.3	13.6	12.5	13.1	16.2	17.7	7.5	6.7
3 to 4 miles	15.8	19.2	13.3	14.5	13.0	14.3	17.3	19.6	14.2	12.2
5 to 9 miles	17.0	18.5	16.7	13.6	12.0	14.2	16.1	20.0	23.7	22.1
10 to 14 miles	6.5	3.2	4.3	4.2	3.9	4.1	4.9	6.6	15.8	13.3
15 to 24 miles	4.4	3.3	1.6	2.1	1.8	2.5	2.3	3.3	15.5	12.6
25 miles or more	2.1	0.3	0.6	0.4	0.4	0.2	0.5	0.8	11.2	10.6
Median (miles)	2.7	2.7	1.7	1.9	1.4	1.8	2.5	3.0	7.3	6.2
Time Traveled[1]										
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	51.8	76.5	64.9	56.8	61.4	57.0	47.9	47.6	31.0	42.8
15 to 29 minutes	29.7	18.5	22.6	26.8	24.1	26.1	32.7	33.9	37.1	32.4
30 to 44 minutes	11.8	2.8	8.7	10.7	9.7	11.0	12.4	12.3	18.1	15.1
45 to 59 minutes	4.0	1.7	2.2	3.7	3.1	4.0	4.5	3.6	7.3	4.8
60 to 89 minutes	2.3	0.6	1.3	1.7	1.5	1.8	2.2	2.4	5.2	3.1
90 minutes or more	0.4	-	0.2	0.2	0.2	0.2	0.2	0.2	1.4	1.8
Median (minutes)	<15	<15	<15	<15	<15	<15	16.0	16.1	22.7	18.3
BLACK										
Mode of Transportation										
Total, enrolled in school	8,644	312	451	4,357	2,186	1,025	1,145	2,276	1,021	227
Total, living at home	8,176	303	443	4,279	2,149	1,010	1,120	2,216	721	213
Walk	2,861	85	159	1,985	1,040	508	438	590	33	9
Car	1,476	136	130	416	252	96	68	260	413	120
School bus	2,788	69	164	1,700	815	372	513	861	12	2
Public bus	972	12	6	149	31	28	90	496	249	61
Bicycle	21	-	-	13	4	4	5	5	3	-
Other mode and not reported	57	1	4	15	7	2	6	3	12	22
Living away from home	470	10	9	78	37	16	25	60	299	15
Percent of those living at home	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	35.0	28.1	35.9	46.4	48.4	50.3	39.1	26.6	4.6	4.2
Car	18.1	44.9	29.3	9.7	11.7	9.5	6.1	11.7	57.3	56.3
School bus	34.1	22.8	32.5	39.7	37.9	36.8	45.8	38.9	1.7	0.9
Public bus	11.9	4.0	1.4	3.5	1.4	2.8	8.0	22.4	34.5	28.6
Bicycle	0.3	-	-	0.3	0.2	0.4	0.4	0.2	0.4	-
Other mode and not reported	0.7	0.3	0.9	0.4	0.3	0.2	0.5	0.1	1.7	10.3
Distance Traveled[1]										
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	35.1	40.1	49.1	46.8	51.8	51.6	33.1	20.1	6.8	12.7
1 mile	11.1	11.6	11.5	11.2	10.7	10.6	13.0	14.3	2.6	4.1
2 miles	12.4	13.2	13.3	11.6	10.4	9.9	15.7	14.4	10.4	9.1
3 to 4 miles	16.0	16.2	11.0	12.9	11.0	11.6	17.6	21.8	17.6	22.3
5 to 9 miles	15.4	14.2	10.3	11.8	11.3	11.1	13.4	18.7	28.2	24.4
10 to 14 miles	5.3	4.3	2.3	3.5	3.0	3.0	5.2	5.8	13.8	14.7
15 to 24 miles	3.5	0.7	2.8	1.7	1.6	2.2	1.5	4.1	11.9	11.2
25 miles or more	1.2	-	-	0.3	0.3	-	0.6	0.8	8.7	1.5
Median (miles)	2.3	1.9	1.1	1.3	<1.0	<1.0	2.3	3.1	6.8	5.3
Time Traveled[1]										
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	46.3	66.9	68.9	55.7	62.0	58.8	40.8	31.1	19.8	28.8
15 to 29 minutes	29.8	22.8	18.6	26.6	22.6	23.7	37.0	37.8	33.7	33.8
30 to 44 minutes	15.0	9.9	8.6	11.9	11.0	11.8	13.5	19.0	25.4	24.2
45 to 59 minutes	5.2	1.3	1.4	3.7	2.5	3.6	5.9	7.1	11.4	7.6
60 to 89 minutes	3.0	1.0	2.0	1.9	1.6	1.9	2.6	4.2	6.6	5.6
90 minutes or more	0.7	-	0.2	0.3	0.3	0.2	0.2	0.8	1.4	-
Median (minutes)	16.8	<15	<15	<15	<15	<15	18.8	22.5	28.4	24.5

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[1] Distance and time traveled are shown for those fully reported.

ble 2. Mode of Transportation, Distance and Time Traveled to School for Elementary and High School Students 3 to 34 Years Old, by Public and Private School: October 1978

mbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

trol of school, mode, distance, 1 time	Total	Nursery school	Kinder-garten	Elementary school				High school
				Total	Grades 1 to 4	Grades 5 and 6	Grades 7 and 8	
IC SCHOOL								
of Transportation								
Total enrolled in school	42,563	587	2,493	25,252	12,481	6,156	6,615	14,231
Total living at home	41,919	582	2,456	24,977	12,344	6,105	6,528	13,904
	12,907	112	740	8,934	4,655	2,262	2,017	3,121
	8,352	311	636	3,327	1,862	669	792	4,077
ol bus	18,497	145	1,043	11,794	5,518	2,935	3,342	5,515
ic bus	1,281	9	28	334	79	70	185	910
cle	710	-	1	508	184	153	172	200
r mode and not reported	172	5	7	79	42	16	21	80
Living away from home	645	5	37	275	137	51	87	328
Percent of those living at home	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	30.8	19.2	30.1	35.8	37.7	37.1	30.9	22.4
	19.9	53.4	25.9	13.3	15.1	11.0	12.1	29.3
ol bus	44.1	24.9	42.5	47.2	44.7	48.1	51.2	39.7
ic bus	3.1	1.5	1.1	1.3	0.6	1.1	2.8	6.5
le	1.7	-	-	2.0	1.5	2.5	2.6	1.4
mode and not reported	0.4	0.9	0.3	0.3	0.3	0.3	0.3	0.6
nce Traveled[1]								
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
than 1 mile	35.5	31.8	46.4	42.4	48.5	43.5	29.7	21.2
e	11.9	13.1	11.8	11.5	10.9	11.0	13.2	12.7
es	14.8	15.3	11.4	13.3	11.9	12.6	16.5	17.6
4 miles	15.9	15.0	12.5	14.0	12.2	13.8	17.4	19.8
9 miles	15.0	14.8	12.7	12.9	11.3	13.0	15.8	19.2
14 miles	4.4	3.6	3.4	3.8	3.4	3.5	4.9	5.8
24 miles	2.2	3.8	1.5	1.8	1.5	2.2	2.0	3.1
es or more	0.5	0.5	0.3	0.4	0.4	0.3	0.5	0.6
(miles)	2.2	2.2	1.3	1.7	1.1	1.6	2.4	2.9
raveled[1]								
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
han 15 minutes	53.9	67.8	65.6	56.7	62.3	57.1	45.8	46.3
29 minutes	28.6	20.2	21.4	26.4	23.0	25.5	33.8	34.1
44 minutes	11.6	6.2	9.0	11.2	10.1	11.3	11.1	13.0
59 minutes	3.6	4.0	2.1	3.7	3.0	3.9	4.7	3.8
89 minutes	2.0	1.7	1.6	1.8	1.5	1.9	2.4	2.5
utes or more	0.2	-	0.3	0.2	0.2	0.2	0.2	0.3
(minutes)	<15	<15	<15	<15	<15	<15	16.8	16.6
SCHOOL								
f Transportation								
otal, enrolled in school	6,215	1,237	496	3,238	1,638	762	[illegible]	1,244
Total, living at home	6,021	1,214	493	3,179	1,626	748	807	1,135
	1,071	70	47	857	400	209	248	97
	3,285	1,084	359	1,277	719	299	259	565
bus	1,251	38	81	880	453	199	228	252
bus	298	10	2	91	30	19	42	195
	76	6	-	62	19	19	25	8
ode and not reported	41	6	3	12	4	4	5	20
Living away from home	192	23	3	59	14	13	32	109
rcent of those living at home	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	17.8	5.8	9.5	27.0	24.6	27.9	30.7	8.5
	54.5	89.3	72.8	40.2	44.2	40.0	32.1	49.7
bus	20.8	3.1	16.4	27.7	27.9	26.6	28.3	22.2
bus	4.9	0.8	0.4	2.9	1.8	2.5	5.2	17.2
	1.3	0.5	-	2.0	1.2	2.5	3.1	0.7
de and not reported	0.7	0.5	0.6	0.4	0.2	0.5	0.6	1.8

footnote at end of table.

Table 2. Mode of Transportation, Distance and Time Traveled to School for Elementary and High School Students 3 to 34 Years Old, by Public and Private School: October 1978—Continued

[Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text]

Control of school, mode, distance, and time	Total	Nursery school	Kinder-garten	Elementary school				High school
				Total	Grades 1 to 4	Grades 5 and 6	Grades 7 and 8	
PRIVATE SCHOOL--Continued								
Distance Traveled[1]								
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	26.0	24.8	23.7	33.0	31.1	35.3	34.5	8.6
1 mile	10.7	12.0	12.3	11.5	12.3	9.5	11.9	6.4
2 miles	14.6	18.6	17.0	13.3	13.9	12.3	13.0	12.9
3 to 4 miles	17.6	20.0	15.3	15.7	15.8	14.2	16.9	21.3
5 to 9 miles	18.7	18.7	20.0	15.6	15.7	18.1	13.4	26.6
10 to 14 miles	7.2	3.1	7.0	6.4	6.5	6.6	6.0	13.7
15 to 24 miles	4.3	2.2	3.3	3.9	4.1	4.0	3.5	7.9
25 miles and over	1.0	0.3	1.6	0.5	0.7	-	0.9	2.4
Median (miles)	2.9	2.7	2.8	2.4	2.5	2.4	2.3	5.1
Time Traveled[1]								
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	57.3	77.8	65.4	57.1	57.3	58.7	55.4	32.4
15 to 29 minutes	28.3	18.5	24.1	29.2	29.6	28.6	28.8	38.1
30 to 44 minutes	8.4	2.9	7.6	8.2	8.1	8.5	8.1	15.4
45 to 59 minutes	3.8	0.4	2.3	3.9	3.7	3.6	5.6	8.0
60 to 89 minutes	1.9	0.3	0.8	1.3	1.3	0.4	2.0	5.8
90 minutes or more	0.2	-	-	0.3	0.4	0.3	0.2	0.3
Median (minutes)	<15	<15	<15	<15	<15	<15	<15	21.9

[1] Distance and time traveled are shown for those fully reported.

Table 3. Mode of Transportation to School for Elementary and High School Students 3 to 34 Years Old, by Age and Race: October 1978

(Numbers in thousands. Civilian noninstitutional population)

Mode of transportation, and race	Total, 3 to 34 years old	3 to 5 years old	6 to 9 years old	10 to 13 years old	14 and 15 years old	16 and 17 years old	18 to 34 years old
Number of students living at home:							
All races	47,962	6,811	13,439	14,061	7,786	6,903	942
White	39,691	3,872	11,140	11,711	6,523	5,278	666
Black	7,240	793	2,001	2,070	1,121	1,001	251
Spanish origin[1]	3,032	308	951	828	360	498	87
Percent walking to school:							
All races	29.2	21.3	35.7	33.7	24.2	19.6	19.0
White	27.2	18.6	33.3	31.4	23.1	18.7	15.8
Black	38.9	33.3	47.9	45.8	30.0	24.1	28.7
Spanish origin[1]	47.5	40.9	57.6	52.8	43.1	29.3	31.0
Percent taking school bus:							
All races	41.2	27.1	42.9	47.1	45.3	33.5	22.4
White	42.1	26.8	44.3	48.6	46.2	32.6	20.4
Black	38.3	29.0	37.8	40.8	42.2	40.0	27.9
Spanish origin[1]	19.5	17.9	17.8	24.6	17.2	18.7	8.0
Percent traveling by car:							
All races	24.3	49.9	18.9	14.0	21.6	38.0	44.7
White	26.3	53.2	20.0	15.1	23.8	42.5	55.1
Black	13.0	34.8	12.1	7.3	8.9	12.4	18.7
Spanish origin[1]	26.1	39.6	22.8	17.1	25.6	36.7	41.4
Percent taking public bus:							
All races	3.3	1.1	0.8	2.2	6.3	7.4	11.6
White	2.1	0.7	0.6	1.5	4.0	4.5	5.9
Black	9.2	2.4	1.5	5.5	18.4	23.1	25.1
Spanish origin[1]	5.2	1.0	1.3	1.9	12.5	13.7	18.4

[1] Persons of Spanish origin may be of any race.

Table 4. Mode of Transportation, Distance and Time Traveled to School for Elementary and High School Students, by Residence and Race: October 1978

(Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

Grade, race, mode, distance, and time	United States	Metropolitan areas					Nonmetropolitan areas
		Total	Central cities			Outside central cities	
			Total	In SMSA's of 1 million or more	In SMSA's of less than 1 million		
ENROLLED IN ELEMENTARY SCHOOL							
Mode of transportation to school							
Total	28,490	18,710	7,479	3,790	3,689	11,232	9,780
Walk	9,791	7,744	4,034	2,392	1,642	3,710	2,048
Car	4,605	3,019	1,424	591	832	1,595	1,586
School bus	12,674	6,947	1,519	516	1,004	5,428	5,727
Public bus	425	337	263	196	68	74	88
Bicycle	570	372	100	25	75	272	198
Other mode and not reported	91	49	27	16	11	22	43
Living away from home and NA	335	243	112	53	58	132	92
Percent distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	34.4	41.4	53.9	63.1	44.5	33.0	20.9
Car	16.2	16.1	19.0	15.6	22.6	14.2	16.2
School bus	44.5	37.1	20.3	13.6	27.2	48.3	58.6
Public bus	1.5	1.8	3.5	5.2	1.8	0.7	0.9
Bicycle	2.0	2.0	1.3	0.7	2.0	2.4	2.0
Other mode and not reported	0.3	0.3	0.4	0.4	0.3	0.2	0.4
Living away from home and NA	1.2	1.3	1.5	1.4	1.6	1.2	0.9
Distance traveled[1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	41.3	47.3	57.6	63.8	51.1	40.5	29.9
1 mile	11.5	12.5	12.8	12.8	12.8	12.3	9.7
2 miles	13.3	13.7	10.8	8.1	13.6	15.6	12.5
3 to 4 miles	14.2	12.9	9.2	7.6	10.9	15.3	16.7
5 to 9 miles	13.2	9.5	6.7	5.6	7.9	11.6	20.2
10 to 14 miles	4.1	2.6	1.7	1.3	2.1	3.2	6.9
15 miles or more	2.4	1.5	1.2	0.7	1.7	1.6	4.2
Median (miles)	1.8	1.2	<1.0	<1.0	<1.0	1.8	2.8
Time traveled[1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	56.8	61.6	67.6	69.9	65.2	57.6	47.6
15 to 29 minutes	26.7	26.4	22.3	21.3	23.3	29.2	27.3
30 to 59 minutes	14.5	10.9	8.8	7.5	10.1	12.3	21.4
60 minutes or more	2.0	1.1	1.3	1.3	1.3	0.9	3.7
White							
Mode of transportation to school							
Total	23,526	15,040	4,849	2,099	2,751	10,191	8,486
Walk	7,560	5,765	2,499	1,273	1,226	3,266	1,796
Car	4,069	2,602	1,139	420	718	1,463	1,467
School bus	10,801	5,944	933	276	657	5,011	4,858
Public bus	248	178	116	76	40	61	71
Bicycle	536	349	86	19	67	262	187
Other mode and not reported	75	35	16	8	8	20	39
Living away from home and NA	236	168	61	25	36	107	68
Percent distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	32.1	38.3	51.5	60.6	44.6	32.0	21.2
Car	17.3	17.3	23.5	20.0	26.1	14.4	17.3
School bus	45.9	39.5	19.2	13.1	23.9	49.2	57.3
Public bus	1.1	1.2	2.4	3.6	1.5	0.6	0.8
Bicycle	2.3	2.3	1.8	0.9	2.4	2.6	2.2
Other mode and not reported	0.3	0.2	0.3	0.4	0.3	0.2	0.5
Living away from home and NA	1.0	1.1	1.3	1.2	1.3	1.0	0.8
Distance traveled[1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	40.1	45.6	57.7	63.7	53.1	39.8	30.3
1 mile	11.6	12.7	13.3	13.8	12.9	12.5	9.5
2 miles	13.6	14.5	11.6	8.4	14.1	15.9	12.0
3 to 4 miles	14.5	13.2	8.7	7.0	10.0	15.4	16.7
5 to 9 miles	13.6	9.8	6.0	5.0	6.8	11.5	20.4
10 to 14 miles	4.2	2.8	1.7	1.5	1.9	3.3	6.7
15 miles or more	2.5	1.5	1.0	0.6	1.2	1.7	4.3
Median (miles)	1.9	1.3	<1.0	<1.0	<1.0	1.8	2.8
Time traveled[1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	56.8	61.4	70.4	72.0	69.3	57.1	48.7
15 to 29 minutes	26.8	27.0	21.6	21.0	22.0	29.6	26.6
30 to 59 minutes	14.4	10.6	7.0	5.9	7.9	12.3	21.1
60 minutes or more	1.9	1.0	0.9	1.1	0.8	1.0	3.6

[1] See footnote at end of table.

Table 4. Mode of Transportation, Distance and Time Traveled to School for Elementary and High School Students, by Residence and Race: October 1978—Continued

(Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

Grade, race, mode, distance, and time	United States	Metropolitan areas					Nonmetropolitan areas
		Total	Central cities			Outside central cities	
			Total	In SMSA's of 1 million or more	In SMSA's of less than 1 million		
Black							
Mode of transportation to school:							
Total	4,357	3,221	2,405	1,528	877	816	1,135
Walk	1,985	1,763	1,426	1,036	391	337	222
Car	416	319	229	131	98	90	97
School bus	1,700	914	560	218	342	354	786
Public bus	149	139	129	107	22	10	11
Bicycle	13	8	3	3	-	5	5
Other mode and not reported	15	11	11	8	3	-	4
Living away from home and NA	78	66	45	26	21	20	12
Percent distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	45.6	54.7	59.3	67.8	44.6	41.3	19.6
Car	9.5	9.9	9.5	8.6	11.2	11.0	8.5
School bus	39.0	28.4	23.3	14.3	39.0	43.4	69.3
Public bus	3.4	4.3	5.4	7.0	2.5	1.2	1.0
Bicycle	0.3	0.2	0.1	0.2	-	0.6	0.4
Other mode and not reported	0.3	0.3	0.5	0.5	0.3	-	0.4
Living away from home and NA	1.8	2.0	1.9	1.7	2.4	2.5	1.1
Distance traveled [1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	46.8	54.1	57.4	64.0	45.8	44.3	26.6
1 mile	11.2	11.6	11.1	10.9	11.3	12.1	10.9
2 miles	11.6	10.1	9.3	7.7	12.1	12.6	15.8
3 to 4 miles	12.9	11.7	10.5	8.9	13.2	15.4	16.2
5 to 9 miles	11.8	9.2	8.3	6.4	11.5	11.6	19.3
10 to 14 miles	3.5	2.0	1.7	1.1	2.7	2.9	7.9
15 miles or more	2.0	1.6	1.7	0.8	3.3	1.1	3.3
Median (miles)	1.3	<1.0	<1.0	<1.0	1.4	1.5	2.8
Time traveled [1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	55.7	61.4	61.8	67.0	52.7	60.0	39.7
15 to 29 minutes	26.6	24.3	23.7	21.8	27.1	26.1	32.9
30 to 59 minutes	15.5	12.7	12.3	9.5	17.2	13.8	23.6
60 minutes or more	2.2	1.6	2.2	1.7	3.1	-	3.8
ENROLLED IN HIGH SCHOOL							
All Races							
Mode of transportation to school:							
Total	15,475	10,315	4,048	2,096	1,952	6,267	5,160
Walk	3,218	2,430	1,139	643	496	1,291	788
Car	4,642	2,973	1,139	348	791	1,835	1,668
School bus	5,767	3,276	640	211	429	2,636	2,491
Public bus	1,105	1,077	904	778	127	172	28
Bicycle	209	167	54	27	27	113	42
Other mode and not reported	100	66	36	20	16	30	33
Living away from home and NA	434	326	136	68	67	190	108
Percent distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	20.8	23.6	28.1	30.7	25.4	20.6	15.3
Car	30.0	28.8	28.1	16.6	40.5	29.3	32.3
School bus	37.3	31.8	15.8	10.1	22.0	42.1	48.3
Public bus	7.1	10.4	22.3	37.1	6.5	2.7	0.5
Bicycle	1.4	1.6	1.3	1.3	1.4	1.8	0.8
Other mode and not reported	0.6	0.6	0.9	1.0	0.8	0.5	0.6
Living away from home and NA	2.8	3.2	3.4	3.2	3.4	3.0	2.1
Distance traveled [1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	20.3	21.5	23.7	24.8	22.6	20.0	18.0
1 mile	12.2	13.7	16.2	17.1	15.1	12.2	9.2
2 miles	17.2	19.3	19.9	18.6	21.2	19.0	13.0
3 to 4 miles	19.9	20.9	20.2	17.6	23.0	21.3	18.0
5 to 9 miles	19.8	17.4	15.0	16.0	14.0	18.9	24.4
10 to 14 miles	6.4	4.6	3.4	3.8	3.0	5.4	10.0
15 miles or more	4.2	2.5	1.6	2.1	1.0	3.1	7.5
Median (miles)	3.0	2.8	2.5	2.4	2.6	2.9	3.9
Time traveled [1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	45.2	46.1	44.1	35.2	53.7	47.4	43.5
15 to 29 minutes	34.4	36.0	35.5	37.3	33.6	36.3	31.3
30 to 59 minutes	17.3	15.7	17.8	23.5	11.6	14.4	20.5
60 minutes or more	3.0	2.2	2.6	4.1	1.0	1.9	4.7

See footnote at end of table.

Table 4. Mode of Transportation, Distance and Time Traveled to School for Elementary and High School Students, by Residence and Race: October 1978—Continued

(Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

Grade, race, mode, distance, and time	United States	Metropolitan areas					Nonmetropolitan areas
		Total	Central cities			Outside central cities	
			Total	In SMSA's of 1 million or more	In SMSA's of less than 1 million		
White							
Mode of transportation to school:							
Total	12,897	8,423	2,657	1,169	1,488	5,765	4,474
Walk	2,560	1,874	689	351	338	1,185	686
Car	4,303	2,739	986	298	689	1,752	1,564
School bus	4,833	2,793	406	117	290	2,387	2,040
Public bus	555	530	407	328	79	123	25
Bicycle	194	158	51	24	27	107	36
Other mode and not reported	96	63	33	17	16	30	32
Living away from home and NA	355	265	84	35	50	181	90
Percent distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	19.8	22.2	25.9	30.0	22.7	20.6	15.3
Car	33.4	32.5	37.1	25.5	46.3	30.4	35.0
School bus	37.5	33.2	15.3	10.0	19.5	41.4	45.6
Public bus	4.3	6.3	15.3	28.1	5.3	2.1	0.6
Bicycle	1.5	1.9	1.9	2.1	1.8	1.9	0.8
Other mode and not reported	0.7	0.7	1.2	1.5	1.1	0.5	0.7
Living away from home and NA	2.8	3.1	3.2	3.0	3.4	3.1	2.0
Distance traveled[1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	20.3	21.1	23.6	25.7	22.0	20.0	18.6
1 mile	11.8	13.2	15.4	17.0	14.1	12.2	9.2
2 miles	17.7	20.1	22.3	20.7	23.5	19.1	13.2
3 to 4 miles	19.6	21.0	20.5	15.5	24.3	21.3	17.0
5 to 9 miles	20.0	17.3	13.9	15.1	12.9	18.9	24.9
10 to 14 miles	6.4	4.8	3.4	4.4	2.6	5.5	9.9
15 miles or more	4.1	2.5	1.0	1.5	0.7	3.1	7.2
Median (miles)	3.0	2.8	2.3	2.4	2.6	2.9	3.9
Time traveled[1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	47.6	48.7	50.8	43.1	57.6	47.8	45.6
15 to 29 minutes	33.9	35.6	33.8	35.9	32.3	36.5	30.7
30 to 59 minutes	15.0	13.8	13.8	18.8	9.8	13.8	19.6
60 minutes or more	3.6	1.8	1.6	3.3	0.4	1.9	4.1
Black							
Mode of transportation to school:							
Total	2,276	1,660	1,261	844	417	399	615
Walk	590	500	413	272	141	87	91
Car	260	171	122	41	81	48	90
School bus	861	439	223	89	134	216	422
Public bus	496	493	453	410	43	40	2
Bicycle	5	1	-	-	-	1	4
Other mode and not reported	3	3	3	3	-	-	-
Living away from home and NA	60	56	47	29	17	7	7
Percent distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Walk	25.9	30.1	32.8	32.2	33.8	21.8	14.8
Car	11.4	10.3	9.7	4.9	19.4	12.0	14.6
School bus	37.8	26.4	17.7	10.5	32.1	54.1	68.6
Public bus	21.8	29.7	35.9	48.6	10.3	10.0	0.3
Bicycle	0.2	0.1	-	-	-	0.3	0.7
Other mode and not reported	0.1	0.2	0.2	0.4	-	-	-
Living away from home and NA	2.6	3.3	3.7	3.4	4.1	1.8	1.1
Distance traveled[1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 1 mile	20.1	23.0	24.2	24.0	24.6	11.9	12.9
1 mile	16.3	16.3	17.3	17.3	16.9	13.4	8.9
2 miles	14.4	14.9	14.8	15.4	13.8	15.2	12.9
3 to 4 miles	21.4	20.9	20.2	21.0	18.3	22.7	24.1
5 to 9 miles	18.7	18.0	17.4	16.4	19.3	19.9	20.6
10 to 14 miles	5.8	3.9	3.5	3.0	4.5	5.2	10.7
15 miles or more	4.9	3.0	2.7	2.9	2.4	4.1	9.9
Median (miles)	3.1	2.7	2.6	2.6	2.6	3.3	4.1
Time traveled[1]							
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Less than 15 minutes	31.1	32.4	30.1	26.1	38.1	39.7	27.6
15 to 29 minutes	37.8	37.9	38.8	38.7	39.1	36.8	37.5
30 to 59 minutes	26.1	25.9	26.8	30.3	19.2	22.9	26.4
60 minutes or more	5.0	3.8	4.3	4.7	3.6	2.3	8.6

[1] Distance and time traveled are shown for those fully reported.

Table 5. Mode of Transportation, Distance and Time Traveled to School for College and Vocational Stuc 14 to 34 Years Old, by Residence: October 1978

(Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

Full-time status, mode, distance, and time of travel	United States	Metropolitan areas				
			Central cities			
		Total	Total	In SMSA's of 1 million or more	In SMSA's of less than 1 million	Outside central cities
COLLEGE AND VOCATIONAL STUDENTS						
Total	11,961	9,112	3,861	2,029	1,833	5,251
Percent	100.0	100.0	100.0	100.0	100.0	100.0
Living at home	71.7	74.5	80.7	83.8	77.2	70.0
Walk	3.8	3.9	3.6	4.8	6.0	2.8
Car	36.1	57.5	55.3	49.4	61.8	59.1
Bus (school and public)	7.5	9.4	16.5	26.6	5.3	4.2
Bicycle	0.6	0.7	0.8	0.4	1.3	0.6
Other mode and not reported	3.7	3.0	2.7	3.7	2.8	3.2
Median distance (miles)	7.3	7.3	5.5	6.0	4.9	9.4
Median time (minutes)	22.4	22.9	21.9	26.5	16.6	23.7
Percent living on campus	17.8	15.8	11.7	9.3	14.1	18.8
Percent living away from home, not on campus	10.4	9.7	7.6	6.9	8.6	11.2
FULL-TIME COLLEGE STUDENTS						
Total	6,979	5,221	2,196	1,147	1,049	3,026
Percent	100.0	100.0	100.0	100.0	100.0	100.0
Living at home	56.3	60.2	69.7	74.9	64.1	53.4
Walk	4.9	5.0	6.7	6.0	7.4	3.8
Car	41.3	42.9	42.6	36.6	48.8	43.4
Bus (school and public)	8.4	10.6	18.8	30.5	5.8	4.6
Bicycle	0.8	0.9	1.1	0.5	1.6	0.9
Other mode and not reported	0.7	0.8	0.7	1.1	0.3	0.8
Median distance (miles)	6.9	7.3	5.6	6.2	4.6	9.8
Median time (minutes)	23.3	24.5	23.2	30.0	15.0	25.4
Percent living on campus	29.6	26.7	20.3	16.4	24.5	31.4
Percent living away from home, not on campus	16.1	13.3	10.1	8.0	11.4	15.3
PART-TIME COLLEGE STUDENTS						
Total	2,859	2,340	1,005	538	468	1,335
Percent	100.0	100.0	100.0	100.0	100.0	100.0
Living at home	93.8	93.9	94.8	95.0	94.4	93.2
Walk	2.0	2.1	3.2	2.6	3.8	1.3
Car	83.8	82.8	76.7	69.1	85.3	87.4
Bus (school and public)	6.2	7.6	13.5	22.1	4.6	2.8
Bicycle	0.5	0.6	0.7	0.2	1.1	0.4
Other mode and not reported	1.3	1.0	0.8	1.1	0.4	1.3
Median distance (miles)	8.5	8.2	5.8	6.1	5.4	10.4
Median time (minutes)	23.1	23.1	21.9	24.7	19.0	23.9
Percent living on campus	0.9	0.8	0.6	0.7	0.4	0.8
Percent living away from home, not on campus	5.2	5.3	4.6	4.3	4.9	5.9
VOCATIONAL STUDENTS						
Total	2,103	1,552	660	344	316	892
Percent	100.0	100.0	100.0	100.0	100.0	100.0
Living at home	92.8	93.4	95.6	95.9	95.3	91.8
Walk	2.7	2.8	4.2	4.1	4.4	1.8
Car	66.9	68.4	65.6	61.3	70.3	70.3
Bus (school and public)	6.6	8.6	13.5	20.3	6.0	5.0
Bicycle	0.1	0.1	-	-	-	0.2
Other mode and not reported	16.6	13.5	12.3	10.5	14.6	14.5
Median distance (miles)	6.0	5.9	5.3	5.8	4.9	7.0
Median time (minutes)	18.9	19.2	19.0	22.0	15.9	19.3
Percent living on campus	1.8	1.7	-	-		1.0
Percent living away from home, not on campus	5.5	4.8	4.4	3.8	4.7	5.2

Table 6. Mode of Transportation, Distance and Time Traveled to School for College and Vocational Students 14 to 34 Years Old, by Year and Type of College: October 1978

(Numbers in thousands. Civilian noninstitutional population. For meaning of symbols, see text)

Full-time status, mode, distance, and time of travel	Total, college and vocational students	All college students	1st or 2nd year of college			3rd or 4th year	5th year or higher	All vocational students
			Total[1]	2-year college	4-year college			
MODE OF TRANSPORTATION								
All students	11,941	9,838	5,054	2,218	2,580	3,104	1,580	2,103
Living at home	8,560	6,615	3,320	2,055	1,177	1,865	1,424	1,957
Walk	459	403	145	62	66	139	119	56
Car	6,698	5,292	2,716	1,791	880	1,438	1,139	1,406
Bus (school and public)	900	762	406	169	211	240	115	138
Bicycle	73	71	21	13	7	26	25	2
Other mode and not reported	436	87	37	22	13	23	28	349
Living on campus	2,110	2,093	1,315	83	1,227	685	94	17
Living away from home, not on campus	1,246	1,130	413	80	176	554	162	116
Full-time students	(NA)	6,979	3,707	1,250	2,263	2,461	810	(NA)
Living at home	(NA)	3,932	2,072	1,114	878	1,278	582	(NA)
Walk	(NA)	345	127	67	62	125	94	(NA)
Car	(NA)	2,895	1,583	920	628	913	399	(NA)
Bus (school and public)	(NA)	585	326	127	171	200	61	(NA)
Bicycle	(NA)	56	14	5	7	24	18	(NA)
Other mode and not reported	(NA)	51	25	13	10	15	11	(NA)
Living on campus	(NA)	2,066	1,301	79	1,219	674	91	(NA)
Living away from home, not on campus	(NA)	981	333	57	167	510	138	(NA)
Part-time students	(NA)	2,859	1,346	968	317	642	870	(NA)
Living at home	(NA)	2,683	1,254	942	299	587	842	(NA)
Walk	(NA)	58	18	15	4	14	25	(NA)
Car	(NA)	2,397	1,133	871	252	524	740	(NA)
Bus (school and public)	(NA)	177	83	41	40	40	54	(NA)
Bicycle	(NA)	15	7	7	-	2	6	(NA)
Other mode and not reported	(NA)	36	12	7	3	7	17	(NA)
Living on campus	(NA)	27	14	3	8	11	2	(NA)
Living away from home, not on campus	(NA)	149	79	23	10	44	26	(NA)
Median distance (miles):								
All students living at home	7.3	7.2	7.6	7.5	8.4	8.0	7.0	6.0
Full time	(NA)	6.9	7.7	7.8	8.2	7.6	4.5	(NA)
Part time	(NA)	8.5	7.5	7.1	8.9	8.7	10.5	(NA)
Median time (minutes):								
All students living at home	22.4	23.2	22.9	21.7	26.3	23.8	23.3	18.9
Full time	(NA)	23.3	24.2	23.3	26.5	24.0	18.4	(NA)
Part time	(NA)	23.1	21.1	19.9	25.7	23.4	26.7	(NA)

[1] Total includes 256,000 students with type of school not reported.

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Appendix A. Data from Other Sources

er and Percent of Public School Students Transported at Public Expense and Number of : Elementary Schools: 1929-30 to 1975-76

rs in thousands. For meaning of symbols, see text)

year	All public school students	Students transported at public expense		Public elementary schools	
		Number	Percent of total	Total	One teacher
6	41,274	22,757	55.1	63	1
4	41,438	21,347	51.5	65	1
	42,254	19,474	46.1	66	2
0	41,934	18,199	43.4	(NA)	(NA)
8	40,878	17,131	42.0	71	4
6	39,154	15,537	39.7	73	6
4	37,405	14,476	38.7	78	10
2	34,682	13,223	38.1	82	13
	32,477	12,225	37.6	92	20
	29,722	10,862	36.5	95	25
	27,740	9,696	35.0	104	35
	25,644	8,411	32.8	111	43
	26,563	7,697	29.0	124	51
	25,111	6,947	27.7	128	60
	23,945	5,854	24.4	147	75
	23,300	5,057	21.7	160	87
	23,267	4,512	19.4	170	96
	24,562	4,503	18.3	183	108
	25,434	4,144	16.3	(NA)	114
	25,975	3,769	14.5	222	121
	26,367	3,251	12.3	232	131
	26,434	2,795	10.6	236	139
	26,275	2,419	9.2	233	143
	25,678	1,903	7.4	238	149

e: Digest of Education Statistics: 1977-78, U.S. Department of Health, Education, and National Center for Education Statistics, tables 35 and 59.

Appendix B. Definitions and Explanations

Population coverage. The figures shown are for the civilian noninstitutional population.

Metropolitan-nonmetropolitan residence. The population residing in standard metropolitan statistical areas (SMSA's) constitutes the metropolitan population. Except in New England, an SMSA is a county or group of contiguous counties which contains at least one city of 50,000 inhabitants or more, or "twin cities" with a combined population of at least 50,000. In addition to the county, or counties, containing such a city or cities, contiguous counties are included in an SMSA if, according to certain criteria, they are essentially metropolitan in character and are socially and economically integrated with the central city. In New England SMSA's consist of towns and cities, rather than counties. The metropolitan population in this report is based on SMSA's as defined in the 1970 census and does not include any subsequent additions or changes.

Central cities. Each SMSA must include at least one central city, and the complete title of an SMSA identifies the central city or cities. If only one central city is designated, then it must have 50,000 inhabitants or more. The area title may include, in addition to the largest city, up to two city names on the basis and in the order of the following criteria: (1) The additional city has at least 250,000 inhabitants or (2) the additional city has a population of one third or more of that of the largest city and a minimum population of 25,000. An exception occurs where two cities have contiguous boundaries and constitute, for economic and social purposes, a single community of at least 50,000, the smaller of which must have a population of at least 15,000.

Age. The age classification is based on the age of the person at his last birthday.

Race. The population is divided into three groups on the basis of race: White, Black, and "other races." The last category includes Indians, Japanese, Chinese, and any other race except White and Black.

Spanish origin. Information on [illegible] descent was obtained by asking "What is (this pe[illegible] origin or descent?" Responses generally refer to a perso[illegible]ceived national or ethnic lineage and do not necessarily indicate the country of birth of himself or his parents. The category Spanish origin includes persons of Mexican, Puerto Rican, Central or South American, and other Spanish origin.

School enrollment. The school enrollment statistics from the current surveys are based on replies to the enumerator's inquiry as to whether the person was enrolled in school. Enumerators were instructed to count as enrolled anyone who had been enrolled at any time during the current term or school year in any type of graded public, parochial, or other private school in the regular school system. Such schools include nursery schools, kindergartens, elementary schools, high schools, colleges, universities, and professional schools. Attendance may be on either a full time or part time basis and during the day or night. Thus, regular schooling is that which may advance a person toward an elementary or high school diploma, or a college, university, or professional school degree. Children enrolled in nursery schools and kindergarten are included in the enrollment figures for "regular" schools, and are also shown separately.

"Special" schools are those which are not in the regular school system, such as trade schools or business colleges. Persons attending "special" schools are not included in the enrollment figures.

Persons enrolled in classes which do not require physical presence in school, such as correspondence courses or other courses of independent study, and in training courses given directly on the job, are also excluded from the count of those enrolled in school, unless such courses are being counted for credit at a "regular" school.

Vocational school enrollment refers to students who were enrolled in classes during October 1978 to take training for occupational purposes, such as in business, vocational, trade, or correspondence schools. They were not attending schools which were part of the regular school system.

College enrollment. The college enrollment statistics are based on replies to the enumerator's inquiry as to whether the person was attending or enrolled in college. Enumerators were instructed to count as enrolled anyone who had been enrolled at any time during the current term or school year, except those who have left for the remainder of the term. Thus, regular college enrollment includes those persons attending a 4-year or 2-year college, university or professional school (such as medical or law school), in courses that may advance the student toward a recognized college or university degree (e.g. BA or MA). Attendance may be either full time or part time, during the day or night.

Two-year and 4-year college. Students enrolled in the first 3 years of college were asked to report whether the college in which they were enrolled was a 2-year college (junior or community college) or a 4-year college or university. Students in the fourth academic year of college or higher were assumed to be in a 4 year college or university.

Level of school. The statistics on level of school indicate the number of persons enrolled at each of five levels: Nursery, kindergarten, elementary school (first to eighth grades), high school (ninth to twelfth grades), and college or professional school. The last group includes graduate students in colleges or universities. Persons enrolled in junior high school through the eighth grade are classified as in elementary school and the other as in high school.

Nursery school. A nursery school is defined as a group or class that is organized to provide educational experiences for children during the year or years preceding kindergarten. It includes instruction as an important and integral phase of its program of child care. Private homes in which essentially custodial care is provided are not considered nursery schools. Children attending nursery school are classified as attending during either part of the day or the full day. Part-day attendance refers to those who attend either in the morning or in the afternoon, but not both. Full-day attendance refers to those who attend both in the morning and afternoon.

"Head Start." Children enrolled in "Head Start" programs or similar programs sponsored by local agencies to provide preschool education to young children are counted under "Nursery" or "Kindergarten" as appropriate.

Public or private school. In this report, a public school is defined as any educational institution operated by publicly elected or appointed school officials and supported by public funds. Private schools include educational institutions established and operated by religious bodies, as well as those which are under other private control. In cases where enrollment was in a school or college which was both publicly and privately controlled or supported, enrollment was counted according to whether it was primarily public or private.

Full-time and part-time attendance. College students were classified, in this report, according to whether they were attending school on a full-time or part-time basis. A student was regarded as attending college full time if he was taking 12 or more hours of classes during the average school week, and part time if he was taking less than 12 hours of classes during the average school week.

Mode of transportation. Th[illegible] ...'s means of transportation to school [illegible] of all students who lived at the address of the interview. (See item 73 of questionnaire below.) If more than one method was used, the method used most often was chosen. If two or more methods were used equally often, then the one that used the most distance was chosen. "Walk" was chosen only for those who walked the entire distance from home to school (since everyone walks part way to their school rooms).

Distance to school. The one way distance actually traveled to school was reported to the closest mile. Respondents were instructed not to report the direct distance if the means of transportation required a circuitous route. (See item 74 of questionnaire below.) The best estimate possible was obtained by the interviewer if the respondent was not certain of the distance.

Time of travel. The total time traveled one way between home and school was reported to the closest minute. (See item 75 of questionnaire below.) Six time intervals were included: less than 15 minutes, 15 to 29 minutes, 30 to 44 minutes, 45 to 59 minutes, 1 hour to 1 hour 29 minutes, and 1 hour 30 minutes or more.

72. While attending school does . . . live?

Here . . . . *(Ask 73)*
In school housing }
Someplace else . . . } *(Skip to next child)*

73. What is . . .'s principal means of transportation to school?

Walks only ■
Car, truck, van
School bus
Public bus, streetcar, train, subway or elevated
Taxicab
Bicycle
Motorcycle
Other means *(Specify)* ____________

74. What is the one-way distance from here to . . .'s school?

Less than a mile	5 miles
1 mile	6 to 9 miles
2 miles	10 to 14 miles
3 miles	15 to 24 miles
4 miles ■	25 miles or more

75. How long does it take . . . to get to school?

Less than 15 minutes	1 hour to 1 hour 29 minutes
15 to 29 minutes	1½ hours or more
30 to 44 minutes	
45 to 59 minutes	*(Go to next child)*

Symbols. A dash "–" represents zero or rounds to zero, and the symbol "B" means that the base for the derived figure is less than 75,000. Three dots "..." mean not applicable, "NA" means not available, and "<" denotes less than.

Rounding of estimates. Individual figures are rounded to the nearest thousand without being adjusted to group totals, which are independently rounded. With few exceptions, percentages are based on the rounded absolute numbers.

Appendix C. Source and Reliability of the Estimates

SOURCE OF DATA

The estimates in this report are based on data collected in the Current Population Survey (CPS), and the Nationwide Personal Transportation Survey.

The source of data in a table other than the Current Population Survey is identified at the bottom of that table. Brief description of the sources from and the procedures by which data of the Bureau of the Census were obtained are presented below.

Current Population Survey (CPS). The CPS estimates in this report are based on data obtained in the October 1978 survey. Questions relating to labor force participation are asked about each member 14 years old and older in each sample household and, in addition, questions are asked about one-way distance traveled to school, time spent traveling to school, and mode of transportation for each member in each sample household.

The present CPS sample was initially selected from the 1970 census file and is updated continuously to reflect new construction where possible. (See the section, "Nonsampling Variability" below.) Previous sample designs used, as a basis, files from the census most recently completed at the time and updated for new construction. The following table provides a description of some aspects of the CPS sample designs in use during the referenced data collection period.

The estimation procedure used for the monthly CPS data involves the inflation of weighted sample results to independent estimates of the civilian noninstitutional population of the United States by age, race, and sex. These independent estimates are based on statistics from decennial censuses; statistics on births, deaths, immigration, and emigration, and statistics on the strength of the Armed Forces.

Nationwide Personal Transportation Survey. Data for the Nationwide Personal Transporation Survey were collected in 1969-70 by the Bureau of the Census for the Federal Highway Administration of the Department of Transportation. This survey was designed to obtain up-to-date information on national patterns of travel and the data was collected in the same manner as the 1978 CPS data. The survey was based on a multi-stage probability sample of housing units located in 235 sample areas, comprising 485 counties and independent cities, representing every State and the District of Columbia. The 235 sample areas were selected by grouping all the national counties and independent cities into about 1,900 primary sample units (PSU's) and further forming 235 strata containing one or more PSU's that were relatively homogeneous according to socio-economic characteristics. Within each of the strata, a single PSU was selected to represent the stratum. Within each PSU, a probability sample of housing units was selected to represent the civilian noninstitutional population.

The households in the Nationwide Transportation Survey comprised two outgoing panels in the Quarterly Housing Survey (QHS) conducted by the Bureau of the Census. On

Description of the Current Population Survey

Time Period	Number of sample areas[1]	Households eligible		Housing units visited, not eligible[2]
		Interviewed	Not interviewed	
October 1978[4]	614	54,000	2,500	10,000
October 1977[3]	614	53,500	2,500	9,000
October 1972	461	45,000	2,000	8,000
October 1967	449	48,000	2,000	8,500

[1] These areas were chosen to provide coverage in each State and the District of Columbia.

[2] These are housing units which were visited but were found to be vacant or otherwise not eligible for interview.

[3] A supplementary sample of housing units in 24 States and the District of Columbia was incorporated with the monthly CPS to produce October 1977 data.

[4] A coverage improvement sample was incorporated beginning in October 1978 in order to provide better representation of mobile homes and new construction housing units.

panel was interviewed in April, July, and October 1969 and January 1970; the second panel was interviewed only once in August 1969.

RELIABILITY OF THE ESTIMATES

Since the estimates in this report are based on a sample, they may differ somewhat from the figures that would have been obtained if a complete census had been taken using the same schedules, instructions and enumerators. There are two types of errors possible in an estimate based on a sample survey—sampling and nonsampling. The standard errors provided for this report primarily indicate the magnitude of the sampling error. They also partially measure the effect of some nonsampling errors in response and enumeration, but do not measure any systematic biases in the data. The full extent of the nonsampling error is unknown. Consequently, particular care should be exercised in the interpretation of figures based on a relatively small number of cases or on small differences between estimates.

Nonsampling variability. Nonsampling errors in surveys can be attributed to many sources, e.g., inability to obtain information about all cases in the sample, definitional difficulties, differences in the interpretation of questions, inability or unwillingness of respondents to provide correct information, inability to recall information, errors made in collection such as in recording or coding the data, errors made in processing the data, errors made in estimating values for missing data, and failure to represent all sample households and all persons within sample households (undercoverage).

Undercoverage in the CPS results from missed housing units and missed persons within sample households. Overall undercoverage, as compared to the level of the decennial census, is about 5 percent. It is known that CPS undercoverage varies with age, sex, and race. Generally, undercoverage is larger for males than for females and larger for Blacks and other races than for Whites. Ratio estimation to independent age-sex-race population controls, as described previously, partially corrects for the biases due to survey undercoverage. However, biases exist in the estimates to the extent that missed persons in missed households or missed persons in interviewed households have different characteristics than interviewed persons in the same age-sex-race group. Further, the independent population controls used have not been adjusted for undercoverage in the 1970 census, which was estimated at 2.5 percent of the population, with differentials by age, sex, and race similar to those observed in CPS.

Sampling variability. The standard errors given in the following tables are primarily measures of sampling variability, that is, of the variations that occurred by chance because a sample rather than the whole of the population was surveyed. The sample estimate and its estimated standard error enable one to construct interval estimates that include the average result of all possible samples with a known probability. For example, if all possible samples were selected, each of these surveyed under identical conditions and an estimate and its estimated standard error were calculated from each sample, then:

1. Approximately 68 percent of the intervals from one standard error below the estimate to one standard error above the estimate would include the average result of all possible samples;
2. Approximately 90 percent of the intervals from 1.6 standard errors below the estimate to 1.6 standard errors above the estimate would include the average result of all possible samples;
3. Approximately 95 percent of the intervals from two standard errors below the estimate to two standard errors above the estimate would include the average result of all possible samples.

The average result of all possible samples may or may not be contained in any particular computed interval. However, for a particular sample one can say with specified confidence that the average result of all possible samples is included within the constructed interval.

All the statements of comparison appearing in the test are significant at a 1.6 standard error level or better, and most are significant at a level of more than 2.0 standard errors. This means that for most differences cited in the text, the estimated difference is greater than twice the standard error of the difference. Statements of comparison qualified in some way (e.g., by use of the phrase, "some evidence") have a level of significance between 1.6 and 2.0 standard errors.

Note when using small estimates. Percent distributions are shown in the report only whenthe base of the percentage is 75,000 or greater. Because of the large standard errors involved, there is little chance that percentages would reveal useful information when computed on a smaller base. Estimated totals are shown, however, even though the relative standard errors of these totals are larger than those for corresponding percentages. These smaller estimates are provided primarily to permit such combinations of the categories as serve each user's needs.

Comparability with other data. Data from sources other than Census Bureau may be subject to both higher sampling and nonsampling variability. In addition, data obtained from the CPS are not entirely comparable with data obtained from other sources. This is due in a large part to differences in interviewer training and experience and in differing survey processes. This is an additional component of error not reflected in the standard error tables. Therefore, caution should be used in comparing results from these different sources.

Standard error tables and their use. In order to derive standard errors that would be applicable to a large number of estimates and could be prepared at a moderate cost, a number of approximations were required. Therefore, instead of providing an individual standard error for each estimate, generalized sets of standard errors are provided for various size of estimated numbers and percentages. As a result, the sets of standard errors (along with factors) provided give an indication of the order of magnitude of the standard error of an estimate rather than the precise standard error.

The figures presented in tables C-1 and C-2 are approximations to generalized standard errors of estimated numbers and estimated percentages. Estimated standard errors for specific characteristics cannot be obtained from tables C-1 and C-2 without the use of thw factors in table C-3. These factors must be applied to the generalized standard errors in order to adjust for the combined effect of sample design and estimation procedure on the value of the characteristic. Generalized standard errors for intermediate values of estimates not shown in tables C-1 and C-2 may be approximated by interpolation.

Two parameters– 'a' and 'b' that are used to calculate standard errors for each type of characteristics are presented in table C-4. These parameters were used to calculate the standard errors in table C-1 and C-2 and to calculate factors in table C-3. They may also be used to directly calculate the standard errors for estimated numbers and percentages. Methods for direct computation are given in the following sections.

Standard errors of estimated numbers. The approximate standard error, σ_x, of an estimated number shown in this report can be obtained by use of the formula

$$\sigma_x = f\sigma \qquad (1)$$

In this formula f is the appropriate factor from table C-3 and σ is the standard error of the estimate obtained from table C-1. Alternatively, standard errors may be approximated by the following formula (2), use of which will provide more accurate results than the use of formula (1) above.

$$\sigma_x = \sqrt{ax^2 + bx} \qquad (2)$$

Here x is the size of the estimate and a and b are the parameters in table C-4 associated with the particular type of characteristic.

Standard errors of estimated percentages. The reliability of an estimated percentage, computed by using sample data for both numerator and denominator, depends on both the size of the percentage and the size of the total upon which this percentage is based. Estimated percentages are relatively more reliable than the corresponding estimates of the numerators of the percentages, particularly if the percentages are 50 percent or more. The approximate standard error, $\sigma_{(x,p)}$, of an estimated percantage, p, can be obtained by use of the formula

$$\sigma_{(x,p)} = f\sigma \qquad (3)$$

In this formula f is the appropriate factor from table C-3 and σ is the generalized standard error for the percentage in table

Table C-1. Generalized Standard Errors of Estimated Numbers

(Numbers in thousands)

Size of estimate	Standard error	Size of estimate	Standard error
25	10	2,500	103
50	15	5,000	144
75	18	7,500	175
100	21	10,000	201
250	33	25,000	306
500	46	50,000	403
750	56	75,000	454
1,000	65	100,000	475

Table C-2. Generalized Standard Errors of Estimated Percentages

Base of estimated percentage (in thousands)	Estimated percentage					
	1 or 99	2 or 98	5 or 95	10 or 90	25 or 75	50
75	2.4	3.3	5.2	7.1	10.3	[illegible]
100	2.1	2.9	4.5	6.2	8.9	[illegible]
250	1.3	1.8	2.8	3.9	5.6	6.5
500	0.9	1.3	2.0	2.8	4.0	4.6
1,000	0.6	0.9	1.4	2.0	2.8	3.3
2,500	0.4	0.6	0.9	1.2	1.8	2.1
5,000	0.3	0.4	0.6	0.9	1.3	1.5
10,000	0.2	0.3	0.4	0.6	0.9	[illegible]
25,000	0.13	0.18	0.3	[illegible]	0.6	[illegible]
50,000	0.09	0.13	0.2	[illegible]	0.4	[illegible]
100,000	0.06	0.09	0.14	[illegible]	0.3	[illegible]

C 2. When the numerator and denominator of the percentage are in different categories, use the factor indicated by the numerator. Alternately, the standard errors may be approximated by the following formula (4) from which the standard errors in table C 2 were calculated; direct computation will give more accurate results than use of the generalized standard error table and the factors.

$$\sigma_{(x,p)} = \sqrt{\frac{b}{x}(p)(100-p)} \qquad (4)$$

Here x is the base of the percentage, p is the percentage $(0 < p < 100)$ and b is the parameter in table C-4 associated with the particular type of characteristic in the numerator of the percentage.

Illustration of use of standard error tables. Table 4 of this report shows that 171,000 Blacks living in metropolitan areas, enrolled in high school, were either driven or drove to their schools. Interpolation in table C-1 shows the standard error (σ_x) of an estimate of this size to be approximately 26,300. The factor in table C-3 for Blacks is 1.32, thus using formula (1) the standard error is approximately 1.32 x 26300 ≐ 35,000[1]. The 68 percent confidence interval as shown by the data is from 136,000 to 206,000. Therefore, a conclusion that the average estimate derived from all possible samples lies within a range computed in this way would be correct for roughly 68 percent of all possible samples. Similarly, we could conclude with 95 percent confidence that the average estimate derived from all possible samples lies within the interval from 101,000 to 241,000, i.e., 171,000 ± (2 x 35,000).

Table C-3. 'f' Factors to be Applied to Generalized Standard Errors in Tables C-1 and C-2

Type of characteristics	'f' factors
MODE, TIME AND DISTANCE OF TRANSPORTATION TO SCHOOL	
Total, metropolitan-nonmetropolitan:	
Total or White	1.00
Black and other races	1.32
Spanish origin	1.33
Students living at home:	
Total or White	1.00
Black and other races	1.32
Spanish origin	1.33
School enrollment[1]:	
Total or White	0.70
Black and other races	0.81
NATIONWIDE PERSONAL TRAVEL SURVEY MODE, TIME OR DISTANCE TRAVELED TO SCHOOL:	
All races	3.30

[1] For school enrollment cross-tabulated by metropolitan-nonmetropolitan residence, multiply the above factor by 1.41.

Table C-4. "a" and "b" Parameters for Estimated Numbers and Percentages of Persons

Type of characteristic	Parameters	
	a	b
MODE, TIME AND DISTANCE OF TRANSPORTATION TO SCHOOL		
Total, metropolitan-nonmetropolitan:		
Total or White	-0.000020	4253
Black and other races	-0.000308	7402
Spanish origin	-0.000043	7469
Students living at home:		
Total or White	-0.000020	4253
Black and other races	-0.000308	7402
Spanish origin	-0.000043	7469
School enrollment[1]:		
Total or White	-0.000016	2064
Black and other races	-0.000186	2792
NATIONWIDE PERSONAL TRAVEL SURVEY		
Mode, time or distance traveled to school:		
All races	-0.000543	46192

[1] For school enrollment cross-tabulated by metropolitan-nonmetropolitan residence, multiply the above parameters by 2.0.

Table 4 also shows that out of 1,660,000 Blacks, residing in metropolitan areas and enrolled in high school, 171,000 or 10.3 percent were either driven or drove to their schools. Interpolation in table C 2 shows the standard error of 10.3 percent to be 2.2 percent. Consequently, the 68 percent confidence interval is from 8.1 to 12.5 percent and the 95 percent confidence interval is from 5.9 to 14.7 percent.

Standard error of a difference. For a difference between two sample estimates, the standard error is approximately equal to the square root of the sum of the squared standard errors of the estimates

$$\sigma_{(x-y)} = \sqrt{\sigma_x^2 + \sigma_y^2} \qquad (5)$$

where σ_x and σ_y are the standard errors of the estimate x and y; the estimates can be of numbers, percents, ratios, etc. This will represent the actual standard error quite accurately for the difference between two estimates of the same characteristic in two different areas, or for the difference between separate and uncorrelated characteristics in the same area. If, however, there is a high positive

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[1] Formula (2) gives a standard error of 35,000.

(negative) correlation between the estimates of the two characteristics, the formula will overestimate (underestimate) the true standard error.

Illustration of the computation of the standard error of a difference between percentages. Table 4 of this report shows that in metropolitan areas, 10.3 percent of all Black high school students (1,660,000) living in their homes traveled to their schools by cars whereas 30.1 percent of these Black students walked to their schools. Thus, the apparent difference in percents between these two groups of Black students is 19.8 percent. Using formula (5), the standard error of the estimated difference of 19.8 percent is about

$$\sqrt{(2.2)^2 + (3.2)^2} = 3.9 \text{ percent}$$

This means that the 90-percent confidence interval around the difference is from 13.6 to 26.0 percent and the 95-percent confidence interval is from 12.0 to 27.6 percent. Thus, we can conclude with 95 percent confidence that in 1978 there was a significant difference between the percentage of Black students who walked to school and the percentage of those Black students who were either driven or drove to school by themselves.

Standard error of a median. The sampling variability of an estimated median depends upon the form of the distribution as well as the size of its base. An approximate method for measuring the reliability of a median is to determine an interval about the estimated median, such that there is a stated degree of confidence that the median based on a complete census lies within the interval. The following procedure may be used to estimate confidence limits of a median based on sample data:

1. Determine, using the standard error table and an appropriate factor or formula (4), the standard error of an estimate of 50 percent from the distribution.
2. Add to and subtract from 50 percent the standard error determined in step 1.
3. Using the distribution of the characteristic, calculate the 68-percent confidence interval by finding the values corresponding to the two points established in step 2.

A two-standard-error confidence interval may be determined by finding the values corresponding to 50 percent plus and minus twice the standard error determined in step 1.

Note: When combining two or more distributions, the medians of the distribution must be computed by the user. The median is the estimate for the person at the center of the distribution and may be approximated by linear interpolation within the group which containes this person.

Illustration of the computation of a confidence interval for a median. Table 1 of the report shows that the median time spent by White college students 14 to 34 years old is 22.7 minutes. Table 1 also indicates the base of the distribution from which this median was determined is 5,672,000.

1. Interpolation in table C-2 shows the estimated standard error of 50 percent on a base of 5,672,000 is about 1.4 percent.
2. To obtain a 95-percent confidence interval on an estimate of a median, add to and subtract from 50 percent twice the standard error found in step 1. This yields percent limits of 47.2 and 52.8 percent.
3. From table 1 of this report, 31.0 percent of White college students spent less than 15 minutes and 37.1 percent spent 15-29 minutes traveling to college. By linear interpolation the lower limit (of the 95-percent confidence interval) on the estimate is found to be about

$$15 + (30 - 15)\left(\frac{47.2 - 31.0}{37.1}\right) = 21.5$$

Similarly, the upper limit may be found by linear interpolation to be about

$$15 + (30 - 15)\left(\frac{52.8 - 31.0}{37.1}\right) = 23.8$$

Thus, the 95-percent confidence interval on the estimated median is from 21.5 to 23.8 minutes.

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World Population 1977

Recent Demographic Estimates for the Countries and Regions of the World

Of every 10 people in the world today, four live in either China or India. Add the Soviet Union and the United States, and half the World's population is covered. The other half of the world's people are distributed among the remaining 196 countries and territories. Throughout the world, a perceptible decline in population growth rates has begun to emerge, with the persistent exception of Africa. In some areas the decrease is substantial, in others incipient; in general the decrease is no longer questionable. Over 70 percent of the world's population lives in countries where the growth rate was lower in 1976 than in 1966.

This publication presents reported and estimated demographic data for the 200 countries of the world with a population of at least 5,000 persons, and for world regions. Benchmark, or hard, data for each country include the enumerated and adjusted population from the latest census or survey, birth and death rates, annual rate of growth, life expectancy at birth, infant mortality rate, percent of population under age 15, median age of mother, median birth order, percent urban, and percent of labor force in agriculture. A projected estimate of the population of each country for 1977 as well as birth and death rates and the annual rate of growth for 1976 are shown. All benchmark data and projected estimates are annotated, and major sources are listed. Also included for each country are population figures for each census taken since 1950, and an annual series of population estimates for the years 1950 to 1977.

This report was prepared under a Resources Support Services Agreement with the Development Support Bureau, U.S. Agency for International Development.

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APPENDIX 3

Statement for the Hearing Record of the
Subcommittee on Civil and Constitutional Rights concerning
School Desegregation

October 5, 1981

HON. JOHN F. SEIBERLING

I commend the Chairman for holding these hearings on the subject of school desegregation, and particularly school busing.

Although busing has been recognized by the federal courts as a means to enforce school desegregation where patterns of enrollment effectively deny students access to equal educational opportunities, busing of school children continues to be a subject of controversy for public officials and of concern for parents of school-aged children. I think these hearings will go a long way to dispel some of the misconceptions about school busing, and perhaps will point us in new legislative directions for guaranteeing children equal opportunity in education.

In my district of Akron, Ohio, the school system several years ago voluntarily undertook to consolidate and update the school system by closing older, energy-inefficient school buildings with under-enrollment and reassigning pupils to other schools, with the intention of improving the majority/minority student ratio in the school buildings and classes. Transportation is a key ingredient in the "Akron Plan," since 5,000 students are bused daily to their schools. The "Akron Plan" does not involve court-ordered busing for desegregation, but is trying to use busing voluntarily as a tool to redesign the school system to better reflect the ratio of majority and minority students in the city. The transportation is supported by the Akron Community Trusts and the Roush Foundation, two philanthropic organizations in the community.

Although the U.S. District Court recently found certain aspects of the Akron Plan unconstitutional and ordered the Board of Education to submit a revised plan, the court found that the system was not illegally segregated. Both rulings are now on appeal.

School busing, whether voluntary or "forced," does not address the underlying causes of segregation among neighborhoods in a city, and segregated housing patterns tend to compound problems of racial imbalance in public school systems. However, it seems to me that rather than prohibiting busing as a means to desegregate schools, the Congress should be helping local school systems develop voluntary alternatives to restore racial balance within school systems while improving educational opportunities for all students.

I would like to enclose, for the Committee record, letters and statements expressing somewhat divergent views, from Dr. Juliet Saltman of the Department of Sociology at Kent State University, Conrad Ott, Supreintendent of the Akron public schools, and Cazzell M. Smith, President of the Akron Branch of the N.A.A.C.P. The letters follow my remarks.

KENT STATE
UNIVERSITY
KENT OHIO 44242

SOCIOLOGY AND
ANTHROPOLOGY
(216) 672-2562

July 10, 1981

The Hon. John Seiberling
Federal Building
Akron, Ohio 44308

Dear Congressman Seiberling:

I appreciate the opportunity to comment on school desegregation and the Akron Plan for decommissioning schools and improving racial balance.

There are several serious problems in the current Akron Plan. First, the primary burden of transportation falls on the minority children whose schools were closed. Second, there are inadequate provisions for those children to participate in after-school activities. Special late busses have not been provided for this, which would allow the children to participate in after-school events and programs. Third, the largest racially imbalanced school cluster (the Buchtel High School cluster) is not included in any plan for voluntary desegregation, leaving it as the single most impacted cluster in the entire district. Though a magnet program was instituted in Buchtel High School, it began when the school was already 84% Black, and has not been able to reverse its image as a Black school, despite millions of dollars allocated for its Urban Model magnet program. Some of these issues have been addressed in the pending lawsuit (Bell vs. Board of Ed. of Akron) which is still awaiting a decision from the 6th Circuit Court of Appeals.

The prime issue is not "forced bussing" but rather the historically forced and maintained segregation in our schools, and what can be done about it. Across the country it is becoming increasingly evident that there is a reciprocal relationship between school desegregation and housing patterns, and that the two should be addressed simultaneously for maximum and lasting effectiveness.

The League of Women Voters acknowledges this critical relationship in its article showing the positive effects of school desegregation ("School Busing Passes The Test", The National Voter, Summer, 1981 , pp. 18-22.) The Los Angeles County Commission on Human Relations also recognized this school and housing desegregation relationship in its recent conference "Neighborhood Integration: A Positive Approach To School Desegregation" (April, 1981). At that conference it was revealed that a number of communities with wise leadership have already found that school desegregation plans can lead to integrated neighborhoods (Louisville, Ky., Nashville, Tenn., Riverside, Cal.).

More and more urban planners throughout the nation are beginning to see that integrated housing patterns and school racial balance are intertwined and must be dealt with together as a unified complex issue. Positive results are evident in those communities that have implemented sound policies for the desegregation of schools and neighborhoods.

Sincerely yours,

Juliet Saltman

Juliet Saltman, Ph.D.
Professor of Sociology

AKRON PUBLIC SCHOOLS
ADMINISTRATION BUILDING · 70 NORTH BROADWAY · AKRON, OHIO, 44308

August 25, 1981

OFFICE OF
SUPERINTENDENT

The Honorable John F. Seiberling
House of Representatives
1225 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Seiberling:

Dr. Juliet Saltman has forwarded a copy of her letter to you--dated July 10, 1981--to Mrs. Mimi Steiner, President of the Akron Board of Education. Mrs. Steiner has transmitted the letter to the other members of the School Board and to me for comments. Dr. Saltman directed her statement to the House Judiciary Subcommittee on Civil Rights (July 29, 1981).

Dr. Saltman notes that the issues addressed in her letter are the subject of ACLU litigation in *Bell v. Board of Education*; this case was decided favorably for the School Board by the United States District Court for the Northern District of Ohio. Since that matter is still under appeal, as Dr. Saltman states, detailed discussion of the issues--which she raises--is probably inappropriate. For the record, however, Dr. Saltman testified as an expert witness on behalf of the ACLU plaintiffs in that action, and was, perhaps, the leading force in causing the action to be filed originally.

However, certain statements, mady by Dr. Saltman, are inaccurate, and should be corrected. First, children being transported--due to the decommissioning of school buildings--include both black and substantial numbers of whites. Moreover, all of the buildings now closed received the expressed approval of the Federal Court for closure *without objection* from the plaintiffs in *Bell*.

Second, "late activity" buses are provided in all cases so as to enable students--being transported--to participate in after-school activities, notwithstanding Dr. Saltman's contention to the contrary.

Third, schools in the Buchtel Cluster have been included in the Akron Plan, with positive effects on racial balance. Dr. Saltman notes the highly successful Urban Model Program which has been conducted at Buchtel over the past several years; this program has had the effect of stabilizing and even improving its racial balance.

I hope that these comments will be helpful. We continue to be proud of Akron's record in the field of race relations, and we will continue to make every effort to maintain and improve the quality of the education being offered to students of all races in this system.

Thank you for sharing this letter with members of the House Judiciary Subcommittee on Civil Rights.

Sincerely,

Conrad

Conrad C. Ott
Superintendent of Schools

CCO/skr

6

AKRON PUBLIC SCHOOLS
ADMINISTRATION BUILDING · 70 NORTH BROADWAY · AKRON, OHIO, 44308

October 14, 1981

OFFICE OF
SUPERINTENDENT

The Honorable John F. Seiberling
House of Representatives
1225 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Seiberling:

I wish to provide the following statement for the House Judiciary Subcommittee on Constitutional Rights. Specifically, I wish to rebut the testimony of Mr. Cazzell Smith, Sr. of Akron, Ohio; Mr. Smith has provided misleading information concerning the Akron Plan.

The testimony of Cazzell M. Smith, Sr., concerning the Akron Plan, is correct, insofar as it states that the decommissioning of school buildings permitted the Akron Public Schools to enjoy greater efficiency in the use of its facilities and had the incidental effect of permitting racial balance among the City's schools to be improved.

However, Mr. Smith is entirely wrong in suggesting that school buildings were selected for closure on the basis of race, that blacks share a disproportionate burden in connection with school decommissionings, or that they are denied the opportunity to participate in after-school activities.

Mr. Smith has noted that issues pertaining to the Akron Plan were litigated before the United States District Court for the Northern District of Ohio. While the Court found the closure of Robinson School to have been improper, every other feature of the Akron Plan was upheld. The closure of Robinson was immediately reversed by the Akron Public Schools, and no appeal was pursued on that point. Other schools were subsequently closed with the approval of the plaintiffs in that case.

Thus, with Robinson re-opened, it is entirely correct to say that the legality of the decommissioning of every closed building in the Akron Public Schools has received explicit approval by the Court, and in virtually every case, without objection by the representatives of the plaintiffs in that case.

That being true, Akron has no need to defend further any aspect of the Akron Plan, which has been overwhelmingly beneficial in many respects. It should be added that contrary to Mr. Smith's statement, transportation is in fact provided to accommodate participation in after-school activities.

We appreciate your consideration of this additional information in connection with Mr. Smith's testimony.

Sincerely,

Conrad C. Ott

Conrad C. Ott
Superintendent of Schools

CCO/skr

STATEMENT TO THE HOUSE JUDICIARY SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

"THE PROCESS AND PROGRESS OF THE AKRON SCHOOL SYSTEMS DECOMMISSIONING OF THE AKRON PUBLIC SCHOOLS"

-CAZZELL M. SMITH, SR.
EXECUTIVE DIRECTOR
EAST AKRON COMMUNITY HOUSE

AND

PRESIDENT, AKRON BRANCH
N.A.A.C.P.

THE AKRON PLAN TO DECOMMISSION SCHOOLS

Regarding the Akron Plan to Decommission Schools:

1. The Akron Board of Education took the initiative in trying to address some concerns:

    a. Declining enrollment in the School System
    b. Cost of operating school buildings in the School System i.e. energy, age of buildings and related cost
    c. Create a better racial balance in the School System

The areas that the Akron Board of Education refused to address were:

a. In decommissioning older schools and creating a better racial balance, the Akron Board of Education knew that the burdens and inconvenience would be disproportionately shared by blacks (85% of the students bused were black).

b. Age of buildings was cited as one of the reasons for school closures. However, the age of buildings appeared not to be a critical factor; WHERE buildings were located WAS the critical factor - in predominately black neighborhoods.

c. Constitutional requirements regarding racial isolation in public schools.

For years the Courts have consistently ruled that in a Voluntary or Court Order Plan, the burden must be proportionately shared by both minority and majority families.

On January 13, 1978 six plaintiffs (Four from East Akron) filed a Suit in U. S. District Court, charging the Akron Public Schools with intentional racial segregation. The Suit sought among other things the desegregation of Akron Public Schools and that School closings be done on the basis of age, condition and capacity of the building and not on the basis of where the school was located. The Suit sought to keep Robinson Elementary School open and pair it with one or more caucasian schools.

In April of 1980, U. S. District Judge Leroy Contie ruled that the Akron Plan was unconstitutional because it placed an unfair burden of busing on blacks. However, six (6) predominately black schools were closed and only one (1) predominately white school was closed. Only Robinson Elementary School which was initially a part of the Akron Plan remained open.

Aftermath of the Akron Plan

-The Akron Plan to Decommission Schools provided for integration in the Akron Public Schools

-The burden of a better racial balance was disproportionately placed on blacks

-Blacks still share the brunt of the decommissioning - they are sometimes denied the opportunity to participate in after school activities because of very little or no provisions to accommodate the need. (No transportation for after school activities).

TOM RAILSBACK
19TH DISTRICT, ILLINOIS

COUNTIES:
CARROLL MC DONOUGH
FULTON MERCER
HANCOCK ROCK ISLAND
HENDERSON WARREN
HENRY WHITESIDE
ADAMS (LIMA, MENDON AND URSA TWPS. ONLY)
BUREAU (FAIRFIELD, GOLD, GREENVILLE AND MANLIUS TWPS. ONLY)
LEE (EAST GROVE, HAMILTON, HARMON, MARION, NELSON, PALMYRA, AND SOUTH DIXON TWPS. ONLY)

JUDICIARY COMMITTEE
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Congreſs of the United States
House of Representatives
Washington, D.C. 20515

ROOM 2104
RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
AREA 202-225-5905

ROOM 288
FEDERAL BUILDING
211-19TH STREET
ROCK ISLAND, ILLINOIS 61201
AREA 309-794-1681

ROOM 15
200 S. RANDOLPH STREET
MACOMB, ILLINOIS 61455
AREA 309-833-2331

DE Subcmte

1981

October 8, 1981

The Honorable Don Edwards
2307 Rayburn HOB
Washington, D.C.

Dear Don:

Earlier this summer I received a letter from Peter Rodino informing me that your Subcommittee on Civil and Constitutional Rights would be holding hearings on issues associated with school desegregation. He asked for comments from knowledgeable spokespersons from our districts.

I contacted several school superintendents for their views, and I received a response from James Hopson, Superintendent of the Rock Island Public Schools. I am enclosing his letter so that you may include it in the hearing record. I hope that it is helpful to the Subcommittee in their consideration of this issue.

With best wishes, I am

Sincerely,

TOM RAILSBACK
Member of Congress

TFR/ahw
Enclosure

ROCK ISLAND PUBLIC SCHOOLS
James A. Hopson, Superintendent

Administrative Center
541 Twenty-first Street
Rock Island, Illinois 61201
(309) 794-0131

July 29, 1981

The HOnorable Tom Railsback, Congressman
19th District of Illinois
Room 2104
Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Railsback:

This is in answer to your letter of July 20 concerning the impact of school desegregation.

It has been about five years since the Rock Island/Milan School District reorganized junior high schools so that all students from 7th through 12th grades were in racially balanced schools. The following are subjective comments based on our experiences during those first few years.

There were many parental complaints, particularly from parents of white students who were reassigned to racially balanced schools. Some complaints continued for as much as three years, often stated in terminology which appeared to be an attempt to hide racial bias. Some complaints continue to this day.

One interesting result was that the administrators in those buildings which had formerly been almost totally white but which received a significant influx of minority students were criticized concerning their building management. Some parents said that they did not have control of discipline. Others said that they were not evenhanded with discipline. Some parents of children who were punished felt that their discipline was too severe. They were also accused of not "shaping up" their teachers.

Several years later we find that those same principals are considered, by most parents and others, as managing their schools very effectively. We have no more complaints than from other schools. Several causal factors could be noted, but we have no data to prove any of them.

There is much greater acceptance of students, teachers and parents who are "different" than there was before the reorganization of our junior high schools.

There still remains, however, a great deal of parent prejudice among some people in each group. It should be noted, also, while we have moved toward greater desegregation in certain schools, integration has not always occurred among the various groups. Students, and to a lesser degree staff members, still tend to congregate with those of their own race, neighborhood and sex. Of course, it is only natural that those who live near each other and walk to and from school together would be friends. This sometimes includes biracial groups, but not as much as we would like.

The situations where there is greatest integration occur where there is a common goal and cooperation is needed. Athletics, music and certain clubs are illustrative of this. A group of basketball players seem to truly become color blind when they are attempting to win their ball game through all working together. Even in these situations, however, prejudice sometimes arises, particularly when an athlete or an athlete's parent feel that he or she is not playing enough.

We have never been under a court order to desegregate, balance enrollments racially or to bus students. In fact, we do not bus our regular students as there is a fine county bus system which our students use. There would be no reason to duplicate this system, and we certainly do not have the money to buy all of those buses and hire the drivers to operate them.

If we can be of any further aid in this matter, please let us know.

Sincerely,

Jim

James A. Hopson

JAH:js

APPENDIX 4

office on
school monitoring
& community
relations

1234 Terminal Tower • Cleveland, Ohio 44113 • Phone: (216) 522-7300

February 3, 1982

Congressman Don Edwards, Chairman
Subcommittee on Civil and
Constitutional Rights
House of Representatives
Washington, D.C. 20515

Dear Congressman Edwards:

I am responding to your letter of December 1, 1981 in which you requested my views on the school desegregation process in Cleveland, Ohio.

First, some background:

(a) The Cleveland Public School System enrolls about 81,000 students (February 1982), approximately 68% of whom are Black. Of the 81,000 students, about 37,000 are transported to school, most but not all of them because of the desegregation plan. General operating funds for 1981 total approximately $228 million. At present, the School System employs a total of 11,000 staff, including about 5,500 teachers and other educators. The School System is governed by a seven-member Board of Education elected at-large, and a Superintendent appointed by the Board.

(b) The Cleveland Board of Education and the Ohio State Board of Education were found liable by the U.S. District Court, Northern District of Ohio for unconstitutional segregation of the Cleveland Public Schools. The Liability Opinion was handed down by the Court on August 31, 1976 after a lengthy trial. A District-wide desegregation plan was approved by the Court on February 6, 1978. Both the Liability Opinion and the desegregation plan have been upheld by the U.S. Court of Appeals, Sixth Circuit.

". . . To observe, assess, and report on the progress of the desegregation of the Cleveland Public Schools and to foster public awareness and understanding of the desegregation process."

(c) Reassignment of various school staff for the purpose of desegregation took place in 1977. Reassignment of students under the desegregation plan took place in three phases between Fall 1979 and Fall 1980. The balance of the desegregation plan consists of a number of educational improvements and remains in the process of implementation at this writing.

(d) The Office on School Monitoring & Community Relations was created in 1978 by Order of the U.S. District Court as part of the remedial process. The basic mission of the Office is "...to observe, assess, and report on the progress of the desegregation of the Cleveland Public Schools and to foster public awareness and understanding of the desegregation process." As director of this Office, I am an appointee of the Court, and I have served in this capacity from the time the Office was created nearly four years ago. Since 1978, this Office has produced more than 60 reports and other submissions to the Court on the full range of educational programs and school support services covered by the desegregation plan. In June 1981, this Office produced an organizational study of the Cleveland School System which concluded that the School System "is in a state of organizational crisis, years in the making and now of great depth."

Although the desegregation process in Cleveland is still incomplete, there have been enough events since the Liability Opinion was issued more than five years ago on which to base some conclusions. The following conclusions, in my view, are worthy of note:

1. School desegregation in Cleveland has been peaceful. That is, Cleveland has not experienced an upsurge of school incidents of a racial nature as a by-product of school desegregation. This result stands in contrast to the anxiety and fear that were pervasive in the pre-desegregation period from 1976 to 1979.

2. The public promotion of a peaceful, non-violent acceptance of school desegregation was led by churches, human service agencies and other private-sector groups. The Cleveland School System

did little work of this kind, except for an eleventh-hour effort just before the first students were assigned for desegregation in Fall 1979. The School System's attempts in community relations have increased markedly since 1980, but problems remain, and the absence of an intensive information program for parents, public, students and school staff in the pre-1979 period is an immeasureable liability with some negative effects that may never be overcome.

3. The first result of desegregation in Cleveland has been the elimination of one-race schools. Before desegregation, one-race schools (i.e., schools with student bodies 90% or more White or Black) were the norm in Cleveland. Since desegregation, all schools are bi-racial and, in racial composition, generally reflect the racial composition of the School System's enrollment as a whole. Thus, bi-racial schools now represent the commonly held expectation--they are the new norm. The fact that individual schools are majority-Black in enrollment is not a sign that desegregation failed or is without meaning. Rather, it merely means that the individual schools reflect the majority-Black character of the School System. What is significant is that Cleveland no longer has Black schools or White schools, but just schools.

4. School desegregation has not triggered massive student flight from the School System. Although desegregation undoubtedly caused some families to remove their children permanently or temporarily from the public schools, the available statistics do not support a theory of massive flight--by White or Black families. Specifically:

(a) The percentage of Black students in the System's enrollment has not risen sharply with desegregation. Black students represented about 57% of all students in 1970, 64% of all students by 1979 at the time of the first student reassignments for desegregation, and 68% of total enrollment now--a rate of increase with desegregation comparable to the pre-desegregation years.

(b) According to data from the Catholic schools, there has been no great shift of public school students to Catholic schools. This year, the net loss to the public schools via transfers to Catholic schools was 447 students. To a public School System of 81,000 students, a loss of 447 students represents a factor of less than 1%.

(c) Shrinkage in total enrollment of the Cleveland Public Schools in recent years is part of an enrollment trend that long preceded desegregation. Enrollment peaked at about 150,000 students in 1970. Each year for the ten years since then, enrollment has fallen. The annual shrinkage has not dramatically increased during the years of desegregation since 1979. The enrollment pattern in Cleveland, incidentally, is very much a part of enrollment trends nationwide.

5. It is still too early to conclude whether desegregation in Cleveland will have the intended effect of improving educational quality. The reason is that the educational-improvement components included in the desegregation plan have not yet been implemented completely. At least three points nonetheless are relevant:

(a) The School System has serious educational problems, and these problems were present before desegregation. The main problems include reading achievement, student attendance, discipline, and dropouts. Perhaps the single most revealing indicator is dropouts. The public high schools of Cleveland in the three years immediately preceding desegregation (1976, 1977, 1978) produced a total of approximately 18,000 graduates and more than 13,000 dropouts--a dropout rate approaching 40%. Significantly, the School System, these figures notwithstanding, has not made dropout prevention a high priority.

(b) The Court-adopted desegregation plan is heavy with education-improvement requirements. The plan includes requirements in reading, counseling, teacher training, extra-curricular activities, student training, student discipline, community relations, testing, magnet schools and School System-private sector partnerships. The desegregation plan thus is a school-improvement mandate as well as a desegregation mandate, and desegregation therefore represents an unprecedented opportunity for the School System to update education.

(c) As with any desegregation plan in any school district, results ultimately depend on school officials' performance in translating a plan into action and programs.

6. The issue of school finances has overshadowed the school desegregation process in Cleveland, both slowing and complicating the process. At least these points are relevant:

(a) The financial distress of the Cleveland schools is real; i.e., the problem is spending in excess of revenues, not cash flow.

(b) The problem took shape before desegregation; i.e., desegregation costs did not cause the School System's financial problems.

(c) The problem involves both budgeting and financial controls; i.e., a long-term solution demands the development of internal finance systems which have been absent or ineffective in the past. In this connection, a financial oversight body, created by the State of Ohio, is now in place in Cleveland for the purpose of controlling School System spending and also generating new spending controls.

(d) Desegregation costs in Cleveland have been defrayed by Federal grants that would not have come to the School System except for desegregation. From 1977 through mid-1982, Cleveland received approximately $27.5 million in grants under the Emergency School Aid Act. Any analysis of costs of desegregation should include consideration of ESAA revenues.*

7. Five years into the remedial phase, School System organization and management have emerged as shaping issues in the Cleveland school desegregation case. Organizational issues and management problems began to crop up in the school desegregation case shortly after issuance of the Liability Opinion in late 1976. From then to the present, the record of the Cleveland case is laced with reports, testimony and Court orders which deal with matters of School System organization and management. On two occasions the Court has ordered the appointment of school administrators to handle desegregation--one served for a period in 1978, and the other served from August 1980

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*State liability in the Cleveland case may mean the State will share in desegregation costs, which would benefit Cleveland. This issue is scheduled for Court hearings this month.

to the present. Thus, in Cleveland, desegregation has been controlled both traditionally (by School System administrators) and untraditionally (by Court-appointed administrators). One result is that, on the surface, desegregation appears to have burdened the School System with new organizational complications and new management problems. Close analysis shows, however, that desegregation simply has had the effect of revealing old and serious internal deficiencies in organization and management, much as desegregation has brought old financial problems to the surface. At present, the Cleveland School System is under Court order to reorganize itself in Fall 1982, as a result of a Court-ordered organizational study of the School System by this Office completed in June 1981.

8. The extent of Federal Court intervention in School System decision-making in Cleveland correlates with the System's unresponsiveness to desegregation orders. Cleveland, in my opinion, illustrates a truism: Once a Federal Court orders desegregation, the less responsive a school system is, the more orders it will receive. Contrary to the thesis of "activist" Federal Courts, the record in Cleveland since 1976 shows a flood of Court orders not initiated by the Court but, rather, set off by an unresponsive or ineffective School System. Analysis of key steps in the desegregation process, from construction of a remedial plan through phased implementation of the approved plan, reveals a standard scenario in which the School System's failure to act at all or failure to act effectively is followed by a stream of Court orders intended to overcome the failed response and thereby to keep a desegregation process moving forward. At present, the Cleveland school case counts nearly 2,000 submissions, including more than 300 Court orders, about half of which have a continuing effect on School System operations. Similarly, the size and nature of what may be described as "Court machinery" correlates with School System unresponsiveness to desegregation requirements. In Cleveland, the Court since 1976 has made use of one Special Master, two Experts, a monitoring body, services provided by the U.S. Community Relations Service and a national non-profit office of desegregation planners, an accounting firm, and two school administrators placed inside the School System with desegregation responsibilities. This unusual array of Court-created instruments, in my view, reflects nothing more nor less than the felt

needs of a Federal Court to generate machinery to move desegregation forward once illegal segregation had been determined and given unresponsiveness on the part of the School System.

9. A mythology which makes desegregation the cause of School System problems and which begs for simple, quick-fix solutions to School System defects continues to be an obstacle to School System improvement in Cleveland. Because serious School System problems--financial, managerial, educational--have risen to the surface during the period of desegregation, these problems are associated in time with desegregation, and desegregation is thus linked by association to all of the problems of the schools. Desegregation thus is made to appear as the culprit--the cause of budget deficits, shrinking enrollment, discipline and truancy problems, reading achievement problems, administrative problems, and so on. Similarly, simple solutions--more money, better public relations, fewer Court orders, more time--have the effect of deflecting attention from internal systemic ills which demand corrective action. The documentation on the Cleveland school desegregation process is as detailed and deep as on any school case since 1954, and far deeper than on the vast majority. And the facts show a School System that is a casualty of its own internal defects--weak management, thin planning, and myopic educational vision. Two points:

(a) Positive educational results from an educationally enlightened desegregation plan depend on what amounts to organizational reform of the Cleveland School System. In other words, the School System must make itself organizationally effective in financial management, personnel management, school management, and educational planning before the School System can be expected to produce effective education in a racially non-discriminatory setting on a consistent basis. For this reason, the reorganization which the School System is required to carry out in the near future is crucial not only to desegregation results but also to the future of the School System as a whole.

(b) Opinions that incorrectly blame desegregation for various School System problems will probably harden into place unless and until public officials, including School System officials, make a concerted effort to inform the public of the facts.

I am enclosing four documents that substantiate and amplify the above conclusions.*

1. The educational-improvement features of the Court-adopted desegregation plan are summarized in the pamphlet entitled, "The Educational Components of the Remedial Order."

2. A detailed analysis of the origins of the present financial problems of the Cleveland Public School System is contained in the report entitled, "A School System in Distress", by Michael J. Hoffmann. (June 10, 1981)

3. A detailed analysis of organizational and management problems in the Cleveland Public School System is contained in the report entitled, "Office on School Monitoring and Community Relations' Report -- Organizational Study Of The School District." (June 1, 1981) (I have enclosed both the full text of this report and an executive summary.)

4. A description of selected administrative problems caused by organizational deficiencies in the Cleveland Public School System is contained in the report entitled, "Fall 1981 School Opening." (November 4, 1981)

I hope I have been responsive to your request for information. With my best wishes.

Sincerely,

Leonard B. Stevens, Ed.D.
Director

LBS/sk
Encls.
cc: Daniel R. Elliott, Jr.,
Chairman, OSMCR Advisory Commission

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*These documents are on file in the offices of the Subcommittee on Civil and Constructional Rights, House Committee on the Judiciary.

APPENDIX 5

VOLUME I

STRATEGIES FOR EFFECTIVE DESEGREGATION: A SYNTHESIS OF FINDINGS

Willis D. Hawley
Robert L. Crain
Christine H. Rossell
Ricardo R. Fernandez
Janet W. Schofield
Mark A. Smylie
Rachel Tompkins
William T. Trent
Marilyn S. Zlotnik

Center for Education and Human Development Policy

Institute for Public Policy Studies

Vanderbilt University

April 1981

Foreword and Acknowledgements

This volume is the central but not the only product of the Assessment of Current Knowledge about the Effectiveness of School Desegregation Strategies (hereafter referred to as the Project). The Project was financed with funds provided by the Office for Civil Rights (OCR) and the National Institute of Education (NIE) of the U.S. Department of Education and administered by NIE under Contract No. NIE-R-79-0034.

There are eight other publications of the Project:

1. A comprehensive review of the empirical research (Volume V).
2. A review of the qualitative literature on school desegregation, including studies surveying the opinions of practitioners and policy makers (Volume VI).
3. An analysis of ten key court decisions (Volume VII).
4. Interviews with local and national experts on school desegregation (Volume VI).
5. A review of actions by state governments and interviews with state officials (Volume VIII).
6. An agenda for future research to determine the effectiveness of school desegregation strategies (Volume II).
7. The design of a multicommunity study to determine the factors that account for the effectiveness of school desegregation (Volume III).
8. A guide to resources that those charged with implementing desegregation might find helpful (Volume IV).
9. A comprehensive bibliography of books, articles, papers, documents and reports that deal with desegregation strategies related to the four general goals outlined above (Volume IX).

All of the persons who participated in this Project, who are listed in the Introduction, had some role in the production of this synthesis. Those listed as authors drafted or revised significant portions of this Project report.

The authors are grateful to several project participants who reviewed drafts of the report and made substantial suggestions. Let us especially acknowledge the contributions of John McConahay, Janet Eyler, Charles Vergon, Thomas Carter, Rosie Feinberg, Jayjia Hsia, Lorenza Schmidt, Susana Navarro, and Meyer Weinberg.

This Project benefitted from the thoughtful advice and the patience of Oscar Uribe of NIE and Mary von Euler, formerly of NIE, now at the Office for Civil Rights (OCR), both of whom served as project officers for the overall study. Janice Pottker of OCR was helpful in coordinating our efforts with that agency and in reviewing and commenting on the project design and the drafts of various publications.

This Project was built on a base of activity supported over the last few years by the Ford Foundation. While no Foundation funds were used directly in this study, the efforts here were substantially facilitated by the Foundation's continuing assistance to our efforts to comprehend and synthesize the research on school desegregation.

WDH, July, 1981

Introduction

Purpose of the Report

This report identifies several strategies that seem to be effective in fostering the attainment of one or more goals of desegregation. It synthesizes information from several different sources in an attempt to provide judges, lawyers, legislators, educators, parents and other interested citizens with some guides to actions that seem likely to enhance educational equity and quality of desegregating or desegregated schools.

It is widely believed that school desegregation has not "worked" and moreover, that it is not likely to "work." The results of this study, in contrast, carry a more positive message. This report, however, does not focus on whether desegregation has been effective overall (see Hawley, 1981a, for this evidence). Its purpose is to identify what can be done --and has been done in most cases--to improve the benefits and reduce the costs of desegregation. Much of what we have found is not at all surprising. What is surprising is that so few school systems seem to be pursuing many of the relatively obvious policies and practices that seem to hold promise for increasing the positive effects of the desegregation process.

The Goals of Desegregation

Desegregation has many different objectives, depending on which court order or plan one reviews or whom one talks to in any given community. Thus the "effectiveness" of a strategy depends on the goal one has in mind. Some strategies help attain some goals and not others. Moreover, some strategies--but not many--enhance the achievement of some goals while impeding the achievement of another. We identify such conflicts in the discussion of specific strategies.

The strategies we have identified relate to the attainment of one or more of the following purposes:

A. Ending Racial Isolation

1. Among Schools. The literature talks about racial isolation among schools within the same districts in two ways: (a) in terms of racial balance—the similarity of the racial mix of schools with the district-wide norm, and (b) the proportion of minorities attending predominantly minority schools.

2. Within Schools. The concern here is with a range of practices that result in racially identifiable classes and groupings with no demonstrable educational necessity. The problem is how to determine what is a legitimate exception to this rule both in terms of the average amount of time a student may be in a racially identifiable group and what special programs or classes, if any, should be further excepted from this standard. In the literature, and in practice, many of the techniques for ending racial isolation within the schools are the same as those used to avoid resegregation.

B. Avoiding Resegregation

Resegregation has two aspects: (1) the reversal or diminution of a district's or school's desegregation status toward greater racial isolation (this can be measured by regression from the high point of desegregation) and (2) the racial isolation of students within desegregated schools. Resegregation can come about for several reasons:

1. Resegregation among schools may result from:

a. residential exit from the district (flight)

b. changes in residential or birth patterns within the district over time

c. enrollment in private schools (flight)

d. new residents of a given race locating in particular school zones.

2. Resegregation within schools

Sources include disciplinary actions, tracking or inflexible ability grouping, extracurricular activities that do *not* involve positive steps to facilitate interracial membership, and special program selection and placement. The problem again is to distinguish between benign practices necessary to attaining shared educational objectives and those which are discriminatory and otherwise have negative consequences for students.

C. Improved Race Relations Among Students

There are a substantial number of different measures of race relations, none of which seems to have emerged as a consensus method. The proliferation of measures substantially complicates the problem of assessing the literature. One's measure of race relations is related to one's expectations and values. For example, one might set at the most positive end of the "scale," student choices of work and play partners that reflect patterns of random choices across races (i.e., "color blindness"). But one might also treat reduction of attitudinal prejudice and non-hostile interracial interactions as indicators of positive race relations. The former is seldom found, the latter standard is attained by some strategies.

In our consideration of the literature on race relations, we draw attention to how the findings vary with the measures of race relations used (see Volume V, chapter 2).

D. Improvements in Educational Quality

Two direct measures of educational quality that we focus on here are scores on standardized tests of verbal and quantitative skills. These measures are not without their drawbacks but they are the only ones regularly reported in the literature and utilized in schools.

E. Public Reaction

There are several aspects of public reaction to segregation. Among these are:

1. Overt opposition to desegregation. Protest appears to increase the difficulties of implementing desegregation and to foster white flight. At the same time, peaceful desegregation may reflect suppressed hostility or the presence of a relatively modest plan and cannot, therefore, be taken as an indicator of successful desegregation.
2. Levels of racial and ethnic prejudice in the abstract (i.e., generalized attitudes) and in particular settings (e.g., housing and jobs).
3. Support for schools as measured by citizens' support for financial needs (e.g., votes on bond issues) and parental involvement in school programs.
4. Support for school board candidates who endorse, at least in relative terms, desegregation.

These are not the only goals of desegregation. But, if we knew how these could be attained, we would be a long way toward improving the effectiveness of desegregation policies.

The goals discussed here do not all derive from constitutional principles. They are widely held values that policymakers, including judges, frequently seek to secure in the process of desegregation. It is assumed here that the most effective strategy will be one that maximizes each of the different goals simultaneously. Few policies or practices do that and some strategies force one to emphasize one goal over others. As noted, in a few cases, strategies work to improve the chances of attaining one goal while decreasing the chances of attaining another. When the evidence available illuminates the nature of such tradeoffs, that information is presented. This report does not assume the primacy of one goal over another. Such choices properly belong to policymakers, not to researchers.

The Study Team

This report is a result of a collaborative effort of a number of persons with extensive experience in research on school desegregation. For the first half of the study period, the project was housed at the Center for Educational Policy, Institute of Policy Sciences and Public Affairs, Duke University. Since August, 1980, it has been located at the Center for Education and Human Development Policy, Institute for Public Policy Studies, Vanderbilt University.*

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* An important part of the study was conducted, under subcontract, by the National Project and Task Force on Desegregation Strategies of the Education Commission of the States. Ben Williams directed this effort. Other participants in the ECS portion of the study were William Sampson, Northwestern University; Charles Vergon, University of Michigan; and Carol Andersen, Education Commission of the States.

Members of the study team are:*

Carol Andersen	Education Commission of the States
C. Anthony Broh	Duke University
Robert L. Crain	Johns Hopkins University, Rand Corporation
Ricardo Fernandez	University of Wisconsin, Milwaukee
Willis D. Hawley	Vanderbilt University
Rita E. Mahard	University of Michigan, Rand Corporation
John B. McConahay	Duke University
Christine H. Rossell	Boston University
William Sampson	Northwestern University
Janet W. Schofield	University of Pittsburgh
Mark A. Smylie	Vanderbilt University
Rachel Tompkins	Citizen's Council for Ohio Schools
William Trent	Vanderbilt University
Charles B. Vergon	University of Michigan, Ann Arbor
Meyer Weinberg	University of Massachusetts, Amherst
Ben Williams	Education Commission of the States

The project coordinator is Marilyn Zlotnik. Janet Eyler, Leslie Ward, and Valerie Cook assisted in the preparation of proposals related to resegregation within schools.

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* Affiliations shown are for the period during which the individuals worked on the study.

The Advisory Board

This project has benefitted from the advice of a distinguished panel of scholars and practitioners who made suggestions and comments on everything from the project design to the final report. The members of the Board are:

Mary Berry, Professor of History, Howard University and Vice Chairperson, U.S. Commission on Civil Rights

Fred Burke, Commissioner of Education, State of New Jersey

Norman Chachkin, Lawyers' Committee for Civil Rights Under Law

Francis Keppel, Professor of Education, Harvard University and Chairman, National Project and Task Force on Desegregation Strategies

Hernan LaFontaine, Superintendent, Hartford Public Schools

Sharon Robinson, Director of Instruction and Professional Development, National Education Association

Peter Roos, Director of Education Litigation, Mexican American Legal Defense Fund

Franklin Wilson, Professor of Sociology, University of Wisconsin, Madison

Methodology*

Sources of Information

This report pulls together information from several sources:

1. Quantitative Studies. These studies employ various types of statistical techniques to demonstrate a relationship between two or more variables. They range from case studies of particular schools to large national surveys. About six hundred of such studies were reviewed. The numerous syntheses of empirical studies (e.g. Hawley, 1981b; Weinberg, 1977) are not included because the studies examined in those syntheses were analyzed directly. (These syntheses are cited in our presentation where they provide the reader with an economical reference). Detailed analyses of these quantitative studies are presented in Volume V of the Project. We continued to add information from empirical studies until May, 1981 so that Volume V does not deal with all the quantitative material used in this synthesis.

2. "Qualitative" Literature. The literature reviewed here ranges from systematic ethnographic studies of classrooms and schools to reports about national trends by informed observers. It is sometimes difficult to retain the distinction between qualitative and quantitative studies. For example, some ethnographic studies fall into the latter category because they employ quantitative data in a comparative way while other ethnographic studies use no data or provide data for descriptive rather than analytical purposes. About five hundred and

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* A more detailed explanation of the methods used to collect and interpret information on different desegregation strategies is provided in the introduction to Volume V.

fifty items of this sort were included in our analysis. The analysis of this literature is provided in Volume VI. A much larger number of papers, articles and reports were examined but were not included because they offered no cause and effect statement about desegregation and one of the outcomes stated above. For example, material that represents opinion about the desirability of desegregation is not included in this analysis. Special attention in this review was given to journals that are particularly concerned with minority education so that the perspectives of minority writers would be represented. In addition, reports on the role of state governments in fostering effective desegregation were also reviewed.

3. Surveys of Opinion - Consensus Articles. Consensus articles are those which represent the collective judgments of informed individuals. For example, the U.S. Commission on Civil Rights' survey of school superintendents (1976) falls into this category because it is a study not of superintendents' behavior but of their perceptions. Other reports of this type are the product of conferences or surveys and reflect perceived agreements about the effectiveness of different desegregation strategies. We review four items of this sort. An analysis of these studies and reports is contained in Volume VI.

4. Court Documents. The opinions from 10 significant cases were examined in detail. Each of these cases provides evidence and/or expert opinion on different strategies. In each case studied, the original plan was amended. The detailed analysis of these cases is provided in Volume VII. Sections from this volume, which

was prepared by Charles Vergon, are included verbatim in the synthesis.

5. Interviews with Experts. Three types of persons knowledgeable about desegregation were interviewed. We describe them as local, state and national experts. Sixteen districts were selected because they had been desegregated for five years or more and because the strategies they employed were considered to be of interest by the study team. In each district, a handful of knowledgeable persons, usually including educators, a journalist who had followed the desegregation experience, and a representative of the plaintiff or the leading civil rights group advocating desegregation, were interviewed extensively by a member of the study team. In all, 95 local experts were interviewed. Interviews were also conducted with 40 national experts. These experts were selected on the basis of their published writing, their experience as consultants, or their practical experience. The results of these interviews are presented in Volume VI.

   Thirty-seven state officials and persons knowledgeable about the role of the states in facilitating desegregation were also interviewed. Since the focus of this synthesis is on local strategies to facilitate effective desegregation, the information in these interviews is not used directly in this volume. However, state strategies that aid desegregation are useful in and of themselves and are presented in Volume VIII.

One of the serious shortcomings of the literature on school desegregation is the absence of information relating to Hispanics, Asian-Americans and Native Americans. While many school systems have large non-black minority populations, desegregation plans have seldom addressed the special needs of such students (as a convenience, following federal law, we refer to these students at times as national origin minorities--NOMs). To deal in part with this problem we asked five experts on the education of NOM students to systematically review an earlier draft of the synthesis. The five consultants, whose reviews represent a kind of interview, are:

Thomas P. Carter, California State University at Sacramento

Rosa Castro Feinberg, Miami Desegregation Assistance Center for National Origin, University of Miami at Coral Gables

Jayjia Hsia, Educational Testing Service

M. Susana Navarro, Mexican American Legal Defense and Educational Fund

Lorenza Schmidt, University of California at Irvine, California State Board of Education

Synthesis of the Information Collected

The different sources of information utilized in this project, taken together, represent the most extensive evidence on the effectiveness of desegregation strategies yet collected. To be useful, however, this information needs to be summarized or synthesized into relatively straightforward conclusions. Variation in the character and quality of the evidence, both across and within the different sources of information, precludes quantitative approaches to aggregation. Instead, all of the evidence related to a given strategy was assembled and the study team member most expert on that strategy prepared a draft summary statement. Different types of evidence were cited in the text and identified by source. The statement of the strategy was then sent to all study team members. The entire study team met together for an extended period to critique and modify each statement. The statements were then rechecked against the relevant data, especially the expert interviews, and revised once again. The draft was further revised and shared with all study team members, the Advisory Board, and our consultants on the education of NOM students.

We have sought to develop practical advice on how to more effectively desegregate public schools. The specific proposals should not be thought of as hard and fast propositions that will work in all circumstances. In the case of some suggestions, there is little hard evidence available but we have presented the proposal when there was agreement among those experts who commented on the issue involved. In a very few cases, where there was no contrary evidence and when the idea was theoretically sensible, unanimous agreement among study team members, all of whom are experienced researchers of school desegregation, was considered an adequate basis for including a proposal. While not all of the evidence relevant to each strategy is presented in the text of this synthesis, the basis upon which the conclusion was reached is specified.

The bias of the study team has been to rely most heavily on social science research whenever the quality of that inquiry allowed. In many cases, however, the evidence needed to answer policy issues faced by those who develop and implement desegregation policies and programs is missing or mixed. We have found expert opinion to be extraordinarily helpful in clarifying these uncertainties. Thus, the conclusions reached rest mainly on these two sources of evidence.

There is, we found, remarkable agreement among desegregation experts, both local and national, about effective strategies for desegregation.

When we say below that the experts supported or opposed a given idea, we do not mean to suggest unanimity. The expertise of experts is not equally appropriate to all issues. The interviews, moreover, were more or less open-ended. So, there is much missing data. Our expert interviews, in short, are not treated as an opinion poll and the percentages of respondents offering a given answer is seldom presented. In no case, however, do we make proposals about which the research and the consensus of expert opinion are in conflict.

Using the Information

Our assumption is that research such as this can help to structure the development of desegregation plans and strategies for implementing them. This is not a cookbook for judges, policy makers and front-line educators. We see this report as a source of ideas that will often require adaptation to specific local conditions and that may be inappropriate or unnecessary in many situations. The ideas presented here may also serve as a kind of constraint on behavior in the sense that policies and practices that seem contrary to those we've found to be effective might be re-examined and their justifications clarified. Similarly, those who seek more effective desegregation may find that they can use the information here to raise issues about the absence of certain policies and practices in their schools and communities.

We want to emphasize our conviction that the degree to which these numerous proposals will enhance the effectiveness of desegregation depends on the sophistication with which they are adapted to fit local conditions and the energy, commitment, and intelligence given to their implementation.

As we've noted, many of the proposals set forth in this report seem quite unsurprising. We do hope, indeed, that they will be considered commonsensical. If many of the ideas presented here are intuitively sensensible, so much the better. The fact is, however, that many, if not most desegregating school systems, seem to be doing things different from those outlined here or seem not to be doing many of the things that hold promise for improving the effectiveness of desegregation. In some cases, political obstacles are apparent and a few of the ideas set out here are financially costly. Such explanations for why these ideas are not more widely implemented, however, do not account for the infrequency with which school systems adopt comprehensive approaches to desegregation that embody appropriate strategies suggested in the pages below.

This report would have been more extensive and specific proposals would have been more detailed had we relaxed our concern for consensus within the study team. By requiring consensus among ourselves and some agreement among experts and/or the written literature and court opinions, we have reduced the level of specificity and speculation that a handbook of practical advice might be expected to provide. We have consciously sought to keep this report both comprehensive and brief. The references cited here and the backup information provided in the other volumes from this project add examples, evidence and specificity to the ideas presented here.

There are three other books that appear to provide very helpful advice to the developers and implementers of desegregation plans to which the person in search for more detailed advice might turn.

Smith, Downs and Lachman's (1973) book Achieving Effective Desegregation, and Desegregating America's Schools by Hughes, Gordon and Hillman (1980), provide useful advice on the development of desegregation plans.

The two books provide details on the processes of desegregation planning that is lacking in this one. But those volumes lack this book's emphasis on programs that will change schools and children and communities in ways that facilitate attaining the goals of desegregation. Garlie Forehand and Marjorie Ragosta's (1976) Handbook for Integrated Schooling provides particularly helpful advice on things that can be done within schools to foster effective desegregation, especially with respect to the goals of equitable treatment of different races and better race relations. We cite this study frequently in this text. Not all of our findings are similar to ideas presented in these three books, but few of our proposals are inconsistent with the suggestions these other analyses offer.

The Presentation of the Strategies

Our review of the literature, court cases and expert interviews resulted in the identification of numerous ideas for facilitating the attainment of the goals of desegregation upon which this study has focused. The strategies outlined here are what might be called "middle level strategies." In most instances, variations on a particular strategy presented here could be identified. However, we sought to keep this report relatively concise and to aggregate the evidence about types of strategies so as to enhance the certainty one might have about the consequences of each approach discussed. The presentation of each strategy usually has three parts. First, the strategy is described and its consequences are identified. Second, the nature of the evidence relating to this strategy is discussed. Third, when it adds information or clarity, illustrative examples are provided. Such illustrations are not, however, always appropriate to the types of recommendations made, as the reader will see.

Developing and implementing an effective desegregation plan involves several considerations that serve to organize this book. The essential first step in desegregation is, of course, the design of the pupil reassignment plan to reduce racial isolation and, to the extent possible, achieve or set the stage for achieving other goals of desegregation.

School desegregation would be much less controversial and much less necessary if housing were desegregated. The second part of this book identifies school desegregation strategies that could lead to reductions in racially segregated housing.

The effectiveness of desegregation depends importantly on the extent to which the community is prepared for and involved in the process. The third section of the report identifies strategies to involve and prepare the community at a district-level so as to build support for and promote compliance with the goals of the desegregation plan.

School desegregation invariably requires changes in the things schools do. Simply reducing isolation and heading off conflict will not be enough to achieve effective desegregation. The fourth section of the report identifies strategies relating to (1) the organization of school systems at the district level to provide continuing support for desegregation, (2) structural and curricular changes within schools and (3) more effective inservice training for teachers and administrators. Inservice training is discussed last in this report to emphasize the importance of seeing this activity as an on-going one rather than something to be done only at the point of preparation for the initial desegregation of schools.

Pupil Assignment Plans

The primary objective of a pupil assignment plan is to reduce or eliminate racial isolation in schools. The constitutional standard is, generally, to bring about "the maximum amount of actual desegregation in light of the practicalities of the local situation" (Green v. New Kent County, 1968; and Swann v. Charlotte-Mecklenburg, 1971).

The development of a reassignment plan requires that several considerations be taken into account. These should comprise a broad range of factors, including the race, ethnicity and socioeconomic class of the students reassigned, the former racial composition and neighborhood of the schools they are reassigned to, the grades during which they are reassigned, the character and continuity of educational programs, and the distance and costs of transportation.

The decisions made importantly influence outcomes of desegregation. Typically the school administration and the courts place primary emphasis on the logistical and political implications of the reassignment process. For example, in many school desegregation plans, kindergarteners and first graders are excluded from the reassignment process solely because parents are opposed to having their youngest children reassigned. Other features of the reassignment process are often chosen primarily for their administrative simplicity. Evidence from research and desegregation experts, however, suggests that the reassignment process has not only political and economic implications, but important social and educational implications that judges, lawyers and school administrators should consider. Moreover, such considerations should rest on more than the views of persons whose expert qualifications are verified primarily by their selection as expert witnesses by the adversaries in a desegregation suit.

Desegregation Should Begin at the Earliest Possible Grade

It is important that school desegregation encompass at least twelve grades and it would be even better if it also included kindergarten. However, because of parental opposition, most desegregation plans omit kindergarten, and some also exclude the early primary grades. Excluding early grades from the plan and then bringing the students in when they reach a certain grade can be harmful to student achievement because changing both schools and classmates in the middle of elementary education is disruptive. Moreover, racial and ethnic attitudes develop early and adjusting to multi-racial or multiethnic environments and avoiding racial and ethnic stereotypes is much more difficult for older students than it is for younger students. Excluding students with limited English proficiency may facilitate bilingual education in some cases but would discourage achievement, and linguistic and ethnic contact.

Evidence. An extensive review of the desegregation and achievement literature has been completed and is described in detail in Volume V of this Project (Crain & Mahard, 1981). Both that review and its predecessor (Crain & Mahard, 1978) present very convincing evidence that desegregation begun in kindergarten or grade one will enhance minority achievement test scores much more than desegregation begun in later grades.

There is very little direct evidence from desegregated schools which allows us to state with great confidence that early desegregation has a more positive effect on race relations than later desegregation. There are, however, a number of empirically and theoretically based reasons for expecting this. Empirical research on the development of racial awareness and racial attitudes shows that young children tend not to have as clear a racial awareness, nor to have developed the elaborate stereotypes that older children have acquired (Katz, 1976). Coleman and his colleagues (1966) found that desegregation at the earliest possible grades was associated with better race relations in later years of schooling. This point was also made by Holt in her expert testimony in the original Brown v. Board of Education case (Kluger, 1977).

Allowing the early primary grades to remain segregated also has the effect of encouraging whites to leave racially changing neighborhoods (i.e., integrated) and move to segregated areas. For the same reason, omitting any grades from a desegregation plan inhibits minority families from moving into white areas.

One unintended consequence of a strategy of including early grades in the desegregation plan may be to produce, at least when they are initially reassigned, greater white flight. Rossell (1978a), Rossell and Ross (1979), and the Massachusetts Research Center (1976), found more withdrawal of elementary white students upon desegregation than of secondary students.

Comment. This issue has grown in importance since, despite the evidence that this is not in the best interests of the children, the Dallas school system, the Nashville-Davidson County school system (for 1981-82), and the Los Angeles school system (from 1977-79) all under court order, have excluded grades K-3 from busing in response to parental opposition.

Voluntary Plans

Voluntary desegregation plans allow a student to both remain in the public school system and have a choice as to whether to be reassigned to a desegregated school. A white student is thus free to remain at his/her current segregated school, although minorities may be transferred in at their own request, and a minority child may remain at his/her segregated school, although whites may request to transfer in (highly unlikely unless the school involved is a magnet school or otherwise exceptional). Voluntary plans can be court-ordered (as in Houston and San Diego) or board-ordered as are the majority-to-minority transfer plans adopted or proposed in most school districts with a minority population above 5% or 10%. Voluntary desegregation is not an effective strategy in reducing racial isolation except in districts with small proportions of minority enrollment. The two most common voluntary strategies are open enrollment, or "freedom of choice" plans, and magnet schools.

Evidence. The qualitative and quantitative research (Rossell, 1978b, 1979) indicate a negative relationship between whether a plan is voluntary and the reduction in racial isolation accomplished because, 1) few, if any, whites opt to transfer to minority schools, 2) the minorities who volunteer to attend white schools tend to be mostly blacks (few Hispanics participate), and 3) those blacks who do volunteer to attend white schools tend to be disproportionately secondary students. The experts interviewed indicated that the fact that voluntary plans tend to be one-way, that is, blacks volunteering to attend white schools but no whites volunteering to attend black schools, contributes to two phenomena which are dysfunctional to the long run goals of desegregation: 1) it makes it appear that school desegregation is a minority problem, and 2) minorities always remain the "outsiders" being bused in. The courts have been increasingly skeptical of voluntary plans.

Because they accomplish little reduction in racial isolation and because whites are not forcibly reassigned out of their neighborhood schools, voluntary plans produce less white flight and community protest than do mandatory plans (Rossell, 1978a). Another possible effect of voluntary plans might be to protect bilingual education programs that might be undermined if limited English speaking students were scattered by a mandatory plan. So-called voluntary plans may not be equally voluntary for all income and ethnic groups. For example, in San Diego, demographic and programmatic circumstances make it more difficult for some Hispanic students to leave their schools without experiencing high transportation costs and losing access to bilingual programs.

Illustrative examples. A desegregation plan proposed for the Charlotte-Mecklenburg schools in 1965 provided for the establishment of geographic attendance areas and a freedom of choice option to students desiring to attend a school other than the one to which they were assigned on the basis of the area of their residence. The plan was approved by the district court and affirmed by the Fourth Circuit. An analysis of the projected impact of the free transfer provision in the first year of plan implementation led to the following findings: "all or practically all" of the 396 white students initially assigned to black schools as a result of the geographical zoning exercised their freedom of choice option to transfer out of the formerly black school and 91 of 1,955 black students elected to be reassigned from a white to a black school.

Three years later, in declaring the plan inadequate in light of intervening legal developments, the federal district court observed that:

> Freedom of students of both races to transfer freely to schools of their own choice has resulted in resegregation of some schools which were temporarily desegregated. The effect of closing the black inner-city schools and allowing free choice has in overall result tended to perpetuate and promote segregation. (300 F.Supp. 1366)

Magnet-Only Desegregation Plans

In a magnet-only desegregation plan, a certain number of schools are designated "magnet" schools with special educational programs or approaches to instruction. In most cases, requirements are established that magnet schools be racially nonidentifiable, sometimes holding these schools to a more exact approximation of district racial composition than non-magnet buildings. Magnet schools have focused on "gifted" children, vocational education, the arts, science or more traditional classroom structures and teaching practices. A campaign is launched to recruit both minority and white student volunteers. It is hoped that sufficient white students will enroll in these schools as a result of their educational attractiveness to achieve the racial balance quotas, and thus increase integration in the school district without placing the burden solely on minority students as most voluntary plans do. Federal courts have generally been critical of magnet-only plans in districts with sizable minority populations.

Evidence. Rossell (1979) finds that only in school districts below 30% minority can magnet schools by themselves accomplish much desegregation in a school district. School districts above 30% minority with magnet-only plans have significantly lower levels of racial balance, and interracial contact (proportion white in the average minority child's school) than when they have mandatory desegregation plans. When magnets are part of a mandatory play they can effectively attract students to desegregated settings (see below).

Experts agree that whites are less likely to enroll in magnet schools located in minority neighborhoods than they are if the school is in a white, racially mixed or commercial area. Loveridge (1978) found that parents with students enrolled in a magnet school program were more favorable toward desegregation than parents whose children were not.

Illustrative examples. Pursuant to a finding of unconstitutional segregation in the Buffalo schools, the district proposed the adoption in 1977 of the "Buffalo Plan." The purportedly voluntary pupil assignment plan utilized ten magnet schools as the primary technique for desegregating selected inner-city, minority identifiable buildings, while incorporating a voluntary transfer program under which minority students could elect to attend formerly white schools on the periphery of the city. Although a substantial reduction in the number of elementary students attending racially isolated schools was reported betweeen the 1975-76 and 1977-78 school year, (26,173 to 7,845 students by defendant's figures), at least 15 all-minority schools remained under the plan. The continued existence of these one-race schools plus the implication of data presented showing that the reduction in students attending one-race schools was largely due to the elimination of all majority schools, suggests that the magnet school facet of the Buffalo Plan was not particularly effective in attracting whites to formerly minority schools. The court was also disturbed by the inequity of the plan which in fact made reassignment mandatory for substantial numbers of minority students whose buildings were closed while white participation via the magnet school program was totally voluntary.

Four years after the implementation of a court-approved desegregation plan in Pasadena calling for mandatory pupil reassignment so that no school would be more than 50% minority, the school board petitioned the court for permission to substitute an integrated zone magnet school approach. The court rejected as unsubstantiated the white flight thesis advanced by school district experts and found the evidence introduced regarding the absence of educational benefits or inadequacies of the original plan "neither persuasive nor adequate" (375 F.Supp. 1304, 1307-08).

In rejecting the proposed magnet plan, the court noted that it would have to overcome a number of potentially imbalanced schools, something that Pasadena and "other California districts laboring under freedom of choice plans have been less than spectacularly successful in achieving ...." In a footnote to its opinion the court observed that freedom of choice plans in San Bernadino and Richmond resulted in limited (11-15%) black participation and a total absence of white involvement (375 F.Supp. 1304, 1307 and fn. 12). The district court's retention of jurisdiction and rejection of the magnet plan was affirmed by the 10th Circuit and not considered by the Supreme Court (Pasadena Board of Education v. Spangler, 427 U.S. 424, 1976).

Among the score of proposals advanced to desegregate Wilmington and New Castle County was one which would establish a system of magnet schools within each of five city-suburban zones of like racial composition. In 1976, the Court observed, "[T]he use of [magnet schools] as the sole means of system-wide desegregation is decidedly unpromising." Notice was taken that a similar plan operating in Houston, called to its attention by the State Board of Education, evidenced little success in actually desegregating the schools and even increased segregation in some buildings (416 F.Supp. 345).

Racine, Wisconsin, and Tacoma, Washington, both with small minority populations, have been able to successfully desegregate their school systems with magnet schools. High proportion minority school systems, such as Houston, however, have been unable to do so. Seattle, Washington tried to desegregate with magnet schools, but found it too expensive. After one year, the Board voted to switch to a mandatory desegregation plan. The experience of San Diego is mixed but magnet schools offering remedial or compensatory programs (e.g., transition, bilingual education) apparently will not attract majority students.

Comments. Little is known about the types of magnets that consistently attract students of different races, ethnicity and family background. Some experts we interviewed believe that magnet schools offering bilingual programs might appeal to a certain number of parents whose children speak satisfactory English but would like to learn a second language. Coral Ways School in Dade County, Florida (Miami) is an integrated, totally bilingual school.

One of the most popular types of magnet schools is one for academically talented students. The experts we interviewed were nearly unanimous in their opposition to these schools. They are seen as expensive, and they may reduce academic programs and the heterogeneity of comprehensive schools. Academic magnets may also induce flight among parents whose children apply but are not admitted to the school.

The relatively small size of most magnets and their specialized character may have the effect of excluding students in need of bilingual education. Further, when the targets for racial composition are set, minority students are sometimes treated as though they were all the same. Instead, racial composition should be set by considering the proportion of each different racial and ethnic group in the district's population.

Mandatory Student Reassignment Plans

This involves the mandatory reassignment by the school administration of students from segregated schools to schools where their presence will increase racial balance. Such plans are termed mandatory because parents have no choice as to their child's reassignment if they want their child to remain in the public school system. Mandatory student reassignment desegregation plans can be ordered by a school board (as in Berkeley and Seattle) or by a court, as in San Francisco, Boston, Denver, etc., or by the U.S. Department of Education (formerly the Department of Health, Education and Welfare), as in Baltimore, Wichita, and Amarillo.

Mandatory plans commonly employ one or a combination of reassignment techniques. Among the more prevalent techniques are establishing geographic boundaries where none previously existed, redrawing pre-existing boundaries, closing old or constructing new schools, pairing or clustering buldings, reorganizing grade structures and feeder patterns, and reassigning students and providing transportation where appropriate in conjunction with the utilization of any of the above techniques.

When pairing or clustering schools for assignment purposes, such linking should take into account the special needs of national origin minority (NOM) students for language and cultural reinforcement programs.

Evidence. This strategy is the most effective method of reducing racial isolation because although mandatory white reassignment produces a greater loss of whites to private or suburban schools than a voluntary desegregation plan, it still produces a greater proportion white in the average minority child's school than a voluntary plan (Rossell, 1978a).

Some experts believe that mandatory desegregation plans are desirable because under such plans schools are more likely to make special preparation or educational changes and minority students are more likely to have a critical mass of fellow minorities accompany them when they are reassigned to white schools. A critical mass of national origin minority students in a school facilitates the provision of effective bilingual education.

When minority students are mandatorily reassigned to white schools, but whites are not reassigned to minority schools (as in Riverside and Ann Arbor), there is a greater reduction in racial isolation than if the plan is completely voluntary. However, under such "one-way" busing plans, desegregation is seen as a minority problem and minorities are the outsiders. In addition, mandatory reassignment of minorities but not of whites contributes to the idea that whites have control over their own fate, but minorities do not.

Mandatory reassignment plans occasion greater white and middle class flight and more protest than do voluntary plans. However, even where substantial white flight has occurred, racial isolation has remained significantly less than it was before desegregation occurred (Rossell, 1980).

In general, mandatory plans have achieved substantial reductions in racial isolation in all regions of the country (Taeuber & Wilson, 1979). This is true even in districts where there has been substantial white flight (Rossell, 1980).

One-Way or Two-Way Busing

Pupil assignment plans which bus minorities into pre-desegregation white schools, but do not bus white children--at least not many white children--to minority neighborhoods, are called one-way busing plans. Two-way plans require minorities and whites to share the "burdens" of sending one's children to school outside one's neighborhood. The expert consensus is that two-way plans are preferable.

Evidence. There is no empirical evidence that one-way busing plans are harmful to minority students. There is evidence that two-way busing plans, especially when they involve young children, will lead to substantially more white flight from desegregation than will one-way plans (Rossell, 1978a). Mandatory black reassignments, whether in one-way or two-way plans, do not provoke black flight and black protest, relatively speaking, even when blacks disproportionately bear the burden of busing. Blacks in most cities (no evidence is available concerning other minorities) have been willing to accept the extra burden of busing (e.g., Riverside, Tampa, Milwaukee, Fort Wayne, etc.) though black protest against one-way busing seems to be increasing (e.g., in Nashville, Fort Wayne and Portland, Oregon; see also Alexander, 1979).

One-way busing plans, however, regardless of their effect on students, protest and flight, raise equity questions with which each community must deal. The experts we interviewed generally advocated two-way plans because of equity and the long-term support desegregation will have from minority communities. These plans do provide planners with more options to reduce racial isolation and substantially change the likelihood that schools will be closed in black neighborhoods and that new schools will have to be built. Two-way plans may also facilitate housing desegregation, especially where options for white flight are not great.

Enriching Curriculum in All Schools: An Alternative to Academic Magnet Schools

Although academic magnet schools may reduce the perceived costs of desegregation to some parents who consider their children academically gifted, they also may stigmatize the non-magnet schools in a desegregated school district. This, in turn, may induce the flight of families not in the magnet. It seems desirable to offer college preparatory courses in all secondary schools in order to keep parents with high academic aspirations for their children in the public school system, to avoid resegregation among schools, and to foster educational opportunities for all students.

Evidence. The qualitative research supports the proposition that general curriculum enrichment will reduce white flight, but there is no quantitative evidence on this question. As noted earlier, the experts interviewed generally endorsed that avoidance by school systems of academic magnets, i.e., those schools for "academically gifted" students, will minimize inequities. They also tended to believe that ccademic magnets reduce advanced academic courses in "regular" schools. The absence of these courses may mean that students who are very able in one subject, but not in another, will have reduced opportunities, and the motivated students, who might aspire to advanced classes, will be undermined. In this regard, nearly all of the national experts agreed that it is somewhat easier to improve schools with the implementation of desegregation because in most cases a new agenda is being set and external resources and pressures for change exist.

Illustrative example. School officials in New Castle County stated that fear over the loss of specific courses was an important if not critical concern of white parents.

Magnet Schools as Part of a Mandatory Plan

In many districts, magnet schools have been used as educational options within a district-wide mandatory desegregation plan. Students are mandatorily assigned to a desegregated school, or they can opt for a desegregated magnet school with an educational specialization.

Evidence. These plans can both reduce flight and racial isolation. The quantitative research (Rossell, 1979) indicates that it is the mandatory aspect of these desegregation plans which accomplishes the reduction in racial isolation, not the educational option (which many people mistakenly believe is a "voluntary" component of the plan). Moreover, the vast majority of the qualitative research studies, as well as the interviews, find that mandatory student reassignment is necessary to reduce racial isolation any more than a token amount.

One reason given for instituting magnet schools as part of a mandatory desegregation plan is that the inclusion of educational choices may lessen community hostility to the forced aspects of the plan, increase the educational attractiveness of the schools, and as a result reduce white flight and protest. There is no evidence that this is the case.

One unintended consequence of instituting magnet schools may be to stigmatize the non-magnet schools as inferior. This is particularly likely if the magnet schools include academic, admission-by-examination schools. Moreover, exam schools may resegregate the school system by class and thus partly diminish the positive academic effects of socioeconomic desegregation.

Illustrative examples. The number and prominence of magnet schools vary substantially from community to community with the specialized curricula associated with each building largely left to local school officials in most (Boston, Milwaukee, Wilmington) but not all instances (Detroit). In some cases, notably Boston and to a lesser extent Detroit, the court ordered the establishment of university, business, labor, or community-school pairings to facilitate the development and support of distinctive and responsive magnet programs. In Detroit, several city-wide magnet schools emphasizing vocational education were ordered instituted by the federal district court as part of a broader, mandatory-reassignment program. In addition to the establishment of the vocational program, the court ordered the construction or remodeling of facilities to house them, approving a 50-50 cost sharing agreement negotiated between the guilty local and state co-defendants for the construction of the two new vocational centers.

In Boston, with 22 magnet schools within a 150 school system, the non-magnet schools are typically described as inferior to the magnet schools. As a result they have been less successful in holding students. "Magnets" are a central part of the Milwaukee plan and seem to have been quite attractive to parents in that city. Houston, however, despite the fact that it developed an imaginative and expensive magnet-only plan (no required busing), has not been able to attain substantial reductions in racial isolation.

Placing Magnet Schools in Minority Neighborhoods When the Plan is Mandatory

One potentially effective option for minimizing white flight while maximizing racial balance within a mandatory desegregation plan is a two-stage reassignment process. The first stage is voluntary and includes the creation of magnet school programs over a four or five month period in the pre-implementation year. All magnet schools might be located in minority neighborhoods though such schools will be less attractive to whites than schools in all-white or racially mixed areas. Some of them should be "fundamental" schools in order to attract white parents whose image of minority schools is that they are unsafe and lacking in discipline. Magnets located in badly deteriorating minority schools, or the most racially isolated, will be less successful than those placed in newer schools, or those on the border of racially isolated neighborhoods.

The first stage of the reassignment process would then begin with the magnet school reassignment. The evidence from Boston suggests that there are a significant number of whites who are willing to put their children in schools in minority neighborhoods, if these schools are publicized as superior schools and if the alternative is mandatory reassignment to another desegregated school chosen by the school administration (Massachusetts Research Center, 1976; Rossell & Ross, 1979). It is important that this be done on an individual basis rather than a school basis as in Los Angeles. There, schools were asked to volunteer for pairings and clusters with the alternative being later mandatory pairing. The problem with this policy is that when whole schools are asked to volunteer, rather than individuals, any given school may have enough parents who oppose this action, and as a result withdraw their children, to virtually eliminate any chances of achieving racial balance.

After white parents are asked to volunteer for magnet schools in minority neighborhoods, the additional seats in minority schools can be filled by mandatory reassignment of whites. Minorities can also be reassigned by the same process (i.e., they can either volunteer for a magnet school or accept the school district's assignment).

If the one purpose of this two-stage reassignment process is to increase the prestige and resources of minority neighborhoods and schools, and thus lessen white flight overall, magnet schools should not be placed in white neighborhoods. The only exception to this might be the placing of a magnet school in a lower status white neighborhood whose prestige and resources need to be increased as much as those of the minority neighborhoods.

Evidence. Other than the evidence cited above that many whites, depending on the city, are willing to volunteer for magnet schools in minority neighborhoods if the alternative is mandatory reassignment to a non-magnet desegregated school, there is no quantitative evidence that this type of reassignment process will reduce white flight. The qualitative research is equivocal on the subject.

Magnet schools may increase the status of minority schools and minority neighborhoods. On the other hand, they may increase minority frustration since many minorities will be denied the opportunity to attend a superior school in their neighborhood because it is necessary to leave seats for whites from outside the neighborhood.

Maximizing the Efficiency of the Assignment and Transportation Process

Busing is a symbol on which the community focuses. If the pupil assignment and transportation process is conducted efficiently and smoothly, parents may tend to have more confidence in the ability of the school administration to handle other aspects of the desegregation process. Where appropriate, bilingual, bi-cultural personnel should be assigned to school buses and sites to avoid confusion and clarify instructions. As a result, there may be less white flight and a better climate of opinion in the community.

Evidence. There is no hard evidence to support this. Some of the experts interviewed and several qualitative commentaries support this position.

Illustrative examples. The Associate Superintendent of Stockton, California traveled with the Director of Research to every desegregated school district in California to find out what improved implementation efficiency and what didn't. They found, for example, that one school district had tried to get first graders on the right bus in the morning and afternoon, although they cannot read, by putting colors on the front of the bus and then tagging the students with that color. Unfortunately this same district found that 6% of their students were color blind. The Stockton administrators found another school district which had anticipated that problem and put animals on the front of the bus, only to discover that first graders cannot always tell one animal's silhouette from another. The Stockton administrators decided to cover all bases by putting colored animals on the front of the bus and then tagging each student with his/her colored animal. This minimized the number of lost youngsters and they believe it greatly enhanced public confidence in the plan and, as a result, reduced white flight.

Drawing Sub-Districts

Many school districts attempt to maintain a neighborhood element to their school desegregation plan by subdividing the school district into smaller racially balanced districts with reassignment only within these districts. This approach, however, reduces options for achieving racial balance.

Evidence. Rossell and Ross's (1979) analysis of Boston suggests that it is inadvisable to draw inviolable sub-district attendance zones, even if initially racially balanced, particularly when there is only residential area included in the attendance zone. The advantage of a city-wide plan with no sub-districts is that school authorities are able to redraw attendance zones and reassign students from all over the city whenever necessary to stabilize schools. If the plan uses sub-districts for administrative purposes, the central administration should be able to redraw them when necessary.

Phasing-In Desegregation

Many school districts implement their desegregation plan in stages in order to make the process more manageable. Thus, in the first year of desegregation, grades 1-8 may be desegregated and in the second year, grades 9-12 are added to the plan (as in Racine). Plans can also be phased in by geographic area (as in Boston). In this situation, one area of the school district is desegregated in the first year and the rest in the second and/or third year.

Evidence. Phasing-in plans tend to produce more white flight than one would expect from the total amount of reassignments because there is greater white flight during the first year in anticipation of future reassignments. In short, the more warning people are given about desegregation, the more white flight results (Rossell, 1978a; Armor, 1980).

The national experts interviewed were nearly unanimous in disapproving of phased-in plans.

Encourage Stability of Teacher-Student/Student-Student Relationships

Among the considerations desegregation planners should deal with is the general desirability of stability in the relationships students have with their peers and with their teachers. Thus, once racial isolation has been substantially reduced, changes in pupil assignments should be minimized. Such stability may be particularly important to NOM students and others who require bilingual and special education classes.

Evidence. There appears to be no research on the importance of stability in the context of desegregation. Some local and national experts, and the members of the study team, point to several probable advantages of encouraging stability. These observations, if not supported by the research, are consistent with it.

1. Minimizing changes in the composition of a student cohort is likely to minimize conflict over which group will control what territory and facilitate the development of good interpersonal relationships, especially among high school and junior high school students.
2. Minimizing changes for individual students will reduce the personal anxiety many young people feel in new settings, and increase continuity in the curriculum experienced. When movement is necessary, the sending and receiving schools should try to coordinate their curricula.
3. Stability in teacher-student relationships should facilitate the understanding of students' learning needs (assuming stereotypes are avoided and high expectations maintained) and the maintenance of social order in the school should be facilitated because few students will be unknown to those in authority (Gottfredson & Daiger, 1979).
4. Minimal changes in pupil assignment plans and in the number of different schools attended should help parents feel more

confident about being involved in the education of their children. Some experts believe that the uncertainty about the schools their children will attend causes some parents to flee from the public schools.

Comment. This emphasis on stability is not meant to diminish the importance of dealing with resegregation; the stability argument can be, and has been, used as an excuse not to reduce racial isolation. What we are saying is, when plans are drawn and the problem of resegregation among schools is considered, the stability issues raised here should be taken into account. Achieving more stability for students and parents is complicated by the incremental character of many plans. School systems that phase in desegregation plans by grades or geographic areas will invariably induce more instability. Likewise, efforts to minimize desegregation initially keeps the issue in the courts, so that the prospect of pupil reassignment remains a lingering prospect.

In initial assignment plans, and when transfers are necessary, attempts might be made to (a) keep families together, which some experts emphasize is particularly important in NOM settings, (b) limit the number of schools to which students in a given school should be assigned, so that there would be a critical mass of students reassigned who knew each other, and (c) transfer teachers and students together so that students reassigned would still know and be known by several teachers.

Renovations in Schools Receiving Desegregated Student Bodies

Since minority schools tend to be located in the central city, they also tend to be the oldest and most dilapidated schools in a school system. This physical condition contributes to white reluctance to be reassigned to these schools and probably encourages minorities to withdraw from them, when that option is present.

Evidence. The Massachusetts Research Center (1976) found that the newer the building, the less white flight. The qualitative research also supports this basic principle: the better the condition of the schools, the less flight. This is not to say, of course, that parents will not resist sending their children to new or renovated schools. Crain (1977) found better race relations in high schools in better physical condition, and Rossell (1977) found higher average daily attendance in schools in better physical condition. By themselves, however, good facilities will not substantially alter either white flight or educational quality.

Illustrative example. Madison High School in Boston is a magnet school in a minority neighborhood in Roxbury. The school, with its modern facilities, has been extraordinarily successful in attracting whites, even more so than many magnet schools in white neighborhoods.

In Areas Where Desegregation Will Not Occur in the Immediate Future, A Program of Voluntary Metropolitan Student Transfer Should be Instituted

A program permitting minority students to voluntarily transfer from central city to suburban schools has been used in some school districts with a considerable positive impact on minority achievement. The programs are normally supervised by the State Department of Education with transportation provided to minority volunteers who wish to attend suburban schools which agree to cooperate with the program.

Evidence. The summary of the achievement literature included in this report (cf. Volume V) notes that eleven evaluations have been done on such programs in the metropolitan areas of Hartford, New Haven, Bridgeport, Newark, Rochester, and Boston. Eight of the eleven evaluations show positive achievement results often of sizable magnitude. One study in Hartford finds that graduates of the program seemed to be more successful in pursuing careers. Some experts believe that a critical mass of students of a given race should be assured in each school participating in this program. Ideally that critical mass would be at least 15-20%.

Illustrative examples. The best known programs are in Connecticut (Hartford, particularly), Massachusetts (METCO in Boston), and Wisconsin, and the state legislation in Wisconsin and Massachusetts may be useful models for other areas.

Comments. It seems likely that a voluntary metropolitan program will encourage residential desegregation of suburbs receiving students, but no research has been done on this question to date. It should be noted that voluntary metropolitan programs cannot be considered adequate substitutes for desegregation programs, since they invariably leave the minority schools nearly as segregated as before.

Although these programs seem innocuous at first glance, they have in fact met with considerable political resistance, both from suburbs which resist desegregation and central cities which resist the loss of revenue resulting from the decline in enrollment. Orfield (1981) has suggested that such a program may be useful as a precursor to a metropolitan plan, since it introduces the suburban districts to desegregation and helps to develop interdistrict coordination.

Metropolitan Plans

Metropolitan plans are highly effective strategies for reducing racial and class isolation. A metropolitan plan is one whose scope includes the central city and the surrounding suburbs. This can be accomplished by merging a legally separate central city school district and the surrounding suburban school district(s) for the purposes of desegregation after the determination of a cross-district violation (as in Indianapolis-Marion County and Wilmington-New Castle County) or by ordering desegregation in a school district that is already metropolitan in scope (e.g., Charlotte-Mecklenburg, or Tampa-Hillsborough County).

Evidence. Coleman, Kelly and Moore (1975), Farley, Bianchi and Colosanto (1979), Armor (1980) and Rossell (1978a) all find that there is a higher level of interracial contact (proportion white in the average minority child's school) in metropolitan plans because the proportion white tends to be higher to begin with in a school system which includes suburbs, and because there is less white flight from metropolitan plans. The qualitative research as well as the interviews support this general principle.

Coleman et al. (1975), Farley et al. (1979), Armor (1980) and Rossell (1978a), as well as the qualitative writers and the interviewees, all conclude that metropolitan plans produce less white flight than central city plans. It is argued that this is because (1) moving out of the school district can be difficult or undesirable if the high status suburbs are already in the school district, and (2) the proportion minority will be lower than in central city school districts. This latter phenomenon has two effects: it minimizes white anxiety which tends to increase as the proportion minority increases and it also minimizes the proportion of whites who will have to be reassigned. Pearce (1980) finds that metropolitan school desegregation contributes to residential desegregation.

In addition, the qualitative research and the interviews suggest that metropolitan plans will produce greater socioeconomic integration and greater financial stability than central city plans since those who live in the suburbs tend to be of higher socioeconomic status than those who live in the city. It may also give state legislatures a greater stake in providing support to schools.

Illustrative examples. Putting aside county-wide school systems that predated desegregation, there are only a few metropolitan desegregation plans. These are: Wilmington-New Castle County, Delaware; Louisville-Jefferson County, Kentucky; and Indianapolis-Marion County, Indiana.

NOM Students Should be Considered as Distinct Groups

Often non-black minorities have been ignored, treated as blacks, or treated as whites in the design of desegregation plans. Not only should blacks, Hispanics, Asians/Pacific Islanders, and Native Americans be defined as discrete groups, but the educational needs of different subgroups need to be considered.

Evidence. The experts interviewed agreed with this general proposition, almost without exception. The research literature indicates that different racial groups have different types of experiences under desegregation (Gerard & Miller, 1975; Crain & Mahard, 1980; Dornbush & Fernandez, 1979). An obvious point to be made here is that the need for bilingual education among NOM students should not be assumed; it must be determined by systematic testing and teacher/parent assessment.

The Racial/Ethnic Composition of Schools

In drawing their pupil assignment plans, almost every school district faces the question of what the optimum racial and ethnic composition of particular schools should be. "Racial balance" is sometimes the solution to this question but because busing distances needed to achieve balance may be very great and because courts often have accepted the retention of some all-minority schools in districts with large minority populations, the issue is not settled by a racial balance criterion. The problem is, of course, that there are many goals that are taken into account in drawing a pupil assignment plan and different goals may have different implications for the racial and ethnic composition of schools. The following propositions appear to be considerations that should shape decisions about racial composition. There is no precise formula that we can offer that will allow these considerations to be "balanced out" in particular circumstances.

1. Different minority groups (e.g., blacks and Hispanics) should be treated differently and distinctly. Hispanics have sometimes been counted as blacks, and sometimes as whites, usually to minimize the busing of whites.
2. A "critical mass" of between 15-20% of any particular racial or ethnic group should be retained. In multi-race/ethnic schools, this minimum might be relaxed somewhat and the higher the socioeconomic status (SES) of the groups in question (e.g., blacks, whites, Hispanics), the less emphasis needs to be placed on the group's minimum size. A critical mass of students seems to encourage intergroup contact, discourage self-isolation, facilitate the responsiveness of teachers and administrators to the special needs of minorities--especially when remedial or bilingual programs are needed (see Comment below), and promote more parental involvement in the school.
3. In biracial/bi-ethnic situations, intergroup conflict may be greatest when the two groups are about equal in size. This

potential for conflict may be greatest when the students involved are of lower socioeconomic status.

4. White parents, and perhaps middle class minority parents, are more likely to leave or not enter the public schools if their children are bused (a) to schools in which their students are in the minority, especially in biracial/bi-ethnic situations, or (b) to schools in minority neighborhoods. There is some reason to believe that whites are more likely to flee when blacks are the dominant non-white group than when Hispanics are. Other things equal, the higher the socioeconomic status of whites, the more likely they are to flee from desegregation to suburban or private schools.
5. The maintenance of a critical mass of students who do relatively well academically seems to contribute not only to the achievement of these students but to students who have been lower achievers. Students seem to be influenced most by same race peers. The size of the necessary critical mass to promote achievement seems to depend on the achievement gaps involved and the way teachers organize their classes and relate to students (see section D-2 below).

Evidence. Each of the propositions cited above represents the consensus view of the experts interviewed. Longshore (1981) found that whites were most hostile to blacks in desegregated schools that were between 40-60% white. This hostility was most clear in low SES schools, large schools, rural schools and southern schools. Similar conclusions relating to proportion of blacks and white hostility are reached by St.

John (1975) and Bullock (1976). Thomas (1978) and Campbell (1977) both find more racial hostility in situations where whites are lower SES.

While the evidence is less than definitive on the question, the belief that schools should be at least 15-20% minority is widely held by experts in the field (cf. Koslin, Koslin & Pargament, 1972). Crain, Mahard and Narot (1981) found poor race relations and low black male achievement in newly desegregated southern high schools which were less than 20% black. That study also found achievement test scores and race relations generally good where blacks were in the majority although there was considerable evidence of white flight as well. All other studies of school racial composition and minority achievement have reported only a linear trend--the more white students in the school, the higher the minority achievement, though these findings seem more related to the achievement levels of whites in these schools than to race itself (see Hawley, 1981b).

Evidence supporting the proposition above related to white flight is reasonably clear and is summarized by Rossell and Hawley (1981).

There is considerable evidence that black and NOM students are less prejudiced and more responsive to race relations programs than are whites (System Development Corporation, 1980; Erbe, 1977; Regens & Bullock, 1979).

Comment. The generalizations offered above do not lend themselves to examples since the idea is to take all these considerations into account simultaneously. It is important to emphasize that there are many predominantly minority schools that attract and keep students of other races, that have good race relations, and where the academic performance of students is good.

One issue that continues to bedevil desegregation planners in cities with large numbers of students needing bilingual education is how desegregation and bilingual education can be accommodated. There is a growing literature on this topic (Fernandez & Guskin, 1981; Carter, 1979).

As noted above, the assignment of NOM children with limited English proficiency (LEP) during desegregation must be done so as to cluster sufficient numbers of students in any given classroom or school where special assistance (bilingual instruction or English-as-a-Second-Language programs) may be provided. The model most frequently employed to achieve this goal was first adopted in the Boston desegregation plan. In that case, lawyers for the Puerto Rican Legal Defense and Education Fund recommended (and the Court approved) that children of limited English proficiency be clustered in groups of 20 per grade for three consecutive grades in any selected schools to which youngsters were bused in order for a viable program to exist. Schools selected to receive these students were ones with bilingual programs. The principle of clustering for instructional purposes (bona fide groupings under ESAA guidelines) established in Boston, was followed in other desegregation plans, such as the one developed as a result of the court order in Evans v. Buchanan, and has been incorporated in various cities (Detroit, Cleveland, Milwaukee, Kalamazoo) into Title VI ("Lau") compliance plans which have been accepted by the Office for Civil Rights. In effect, NOM children who were classified as LEP were accorded assignment priority, and other children (black and white) were assigned afterwards in accordance with majority/minority ratios and variances approved by the court.

A variation of this method is found when NOM-LEP students in a school with language assistance programs are allowed to remain in that school in order to continue receiving appropriate services. The plan submitted by the Detroit Public Schools in response to the 6th Circuit's 1980 order for additional desegregation between District #1 (predominantly black) and District #2 (significant numbers of NOM-LEP students) utilizes this approach.

Desegregation Plans Should Take Into Account the Socioeconomic Status of Students

Research has shown that one reason why desegregation improves minority student achievement is that students from economically deprived backgrounds benefit from attending school with students of higher income families. The reason for this finding may, however, have more to do with the achievement levels of students with higher SES than with SES *per se*, although teachers may behave differently where there are larger numbers of middle and upper class students and where the parents of these students make demands on the school.

This has several implications for school desegregation. First, middle class white students should be used as effectively as possible in a desegregation plan. Secondly, a desegregation plan should be drawn so as to provide a socioeconomically desegregated school for low-income whites. Low-income whites can benefit educationally in the same way that low-income minorities do from desegregation. Third, in situations where it is impossible to desegregate all minority students, the benefits of desegregation should go first to those from economically deprived backgrounds, assuming that their educational needs will be adequately met in the desegregated setting. As noted in the previous discussion of racial composition, racial conflict is likely to be greatest where the aggregate SES of the school is low, especially in biracial situations where two races are of approximate "strength." Fourth, the intellectual and interpersonal resources of higher SES NOM students should be tapped, particularly those who have received several years of schooling in their native country.

Evidence. The Coleman report (1966) first showed that most of the academic benefit of school desegregation to minorities was the result of the mixing of social classes (high status whites with low status minorities) rather than races. A lack of social class integration may reduce the benefits of desegregation. Charles Thomas (1979) concludes that desegregation involving low SES whites and minorities is more likely to lead to racial tensions than desegregation involving middle class whites and minorities. Bruce Campbell (1977) suggests that low SES whites are more prejudiced than higher SES whites, and when schools with SES mixes are compared, those with high white SES have less racial tension. While it is generally assumed that low-income students create more problems in desegregated schools, there is little evidence of this and one major study (Crain, Mahard & Narot, 1981) found the exact opposite—that racial tensions in southern high schools were more serious when the minority students were middle class rather than poor. There is considerable literature which indicates that low-income white students are more likely to have higher achievement and to attend college if they are in school with more high-income whites, although not all research shows this pattern.

As noted above, desegregation with higher income white students will generally lead to better race relations in schools, but we can also expect greater white flight when the families being desegregated have the means to enroll their students in private schools (see Rossell, 1979; Giles, Gatlin & Cataldo, 1976).

Illustrative examples. Most school systems have not explicitly utilized SES as a criterion, though Pasadena proposed to factor in SES in its desegregation plan in order to achieve SES as well as racial and ethnic balance. In Los Angeles, the plan had the effect of increasing the separation of socioeconomic status because schools were allowed to pair themselves in the first step of desegregation and the board felt that integrating whites with more middle class minorities would reduce white flight. In the view of the staff of the Louisville-Jefferson County schools, the least successful schools in the desegregation plan are the schools which serve low-income blacks and low-income whites; achievement test scores are low for both the whites and the blacks in these schools.

The Issue of Busing Distance

Two of the central issues in almost all desegregation suits and in all planning efforts are: (a) what is the maximum amount of time a student should be on the bus? and (b) how many miles should the longest bus ride be? These two questions are related, of course.

If any argument is to be made about the effects that riding the bus has on students, it would have to center on the time involved. Parents, however, may be equally or more concerned with distance, perhaps because they feel that they could not respond to an emergency the child had at a school "across town."

There is virtually no evidence that riding the bus has a negative impact on students. Studies that have addressed this concern generally indicate that busing itself has no adverse effects on learning. James Davis (1973, p. 119), after looking at data from a large number of desegregated southern school districts, concludes that "there is no evidence that busing *per se* . . . (or) attending one's own neighborhood school has any effects, positive or negative, on school achievement or social climate." Natkin (1980) studied the effects of busing on desegregated second grade students in Jefferson County (Louisville) during the 1978-79 school year. He found no impact of busing on the scores of either black or white students. Barbara Zoloth (1976) examined data on the effects on children of the amount of time spent riding the bus and concludes that it has no relationship to achievement. The National Safety Council reports that riding the bus is safer for students than walking to school. To be sure, some desegregation plans require some students to spend considerably more time getting to school than they did before desegregation. It seems reasonable to assume that riding buses for extended periods of time would be tiring and would take children away from other activities from which they could benefit, and this possibility warrants further study.

There is some research on the relationship between busing distance and white flight. Unfortunately, the evidence is mixed. Rossell (1980) argues that while busing distance has no effect on white flight once a district is initially desegregated, parents whose children face a long bus ride are more likely not to participate in desegregation in the first year. But the evidence on this point is limited.

Not surprisingly, all experts agree that busing distances should be kept "as short as possible." Of course, the shorter the bus rides in most cities, the less racial isolation can be reduced. In short, this issue is of considerable importance but neither the research nor the experts agree on what the maximum time or distance of a bus ride for school children should be.

Who Should be Desegregated? Which National Origin Minorities are Racially Isolated?

Desegregating school districts with large numbers of NOM students face the question: should all NOM students be treated as minorities whose needs are taken into special account in the pupil assignment plan? Many of the experts interviewed raised this question both because desegregation may place some NOM families in a position that is inappropriate and because some school systems have "desegregated" NOM students of certain backgrounds while leaving others isolated.

There is no empirical answer to this question, but the relevant opinions of experts and the views of the study team itself, suggest that the principle involved here is, simply, persons should not be desegregated who are not segregated. This proposition, of course, raises another issue: how does one decide who is segregated?

The answer to that question seems to depend on the answer to several others:

1. Are the students severely deficient in English?
2. Has the group of students been, and is now, the victim of discrimination by public officials?
3. Are the students involved residentially desegregated?
4. Is the income level of the students above the district (or regional) average?

These criteria do not, of course, solve the problem but they do draw attention to the fact that the educational and social needs of NOM students differ substantially and should be treated uniquely by the desegregation plan. Such considerations, in turn, draw attention to the need to ask: what are the goals we are trying to achieve through the desegregation of NOM students?

Using School Desegregation to Effect Housing Desegregation

It has long been known that housing segregation creates segregated schools, and it has been contended in various court suits that the reverse is also true--segregated schools create housing segregation. Now there is some evidence which indicates that school desegregation can promote housing desegregation. This can happen for three reasons. First, when a school district is desegregated there is no pressure for whites with young children to move out of racially mixed neighborhoods since the school administration has guaranteed racial stability. Secondly, any family, white or minority, can move anywhere in the school district knowing that their child will not be the only one of his or her race in the school. Third, school desegregation makes racial steering by real estate agents more difficult since they can no longer use the neighborhood school as a guide to the neighborhood's prestige, nor can they intimidate whites by arguing that certain neighborhoods have schools of inferior quality based on racial composition.

The most systematic study of the relationship between school desegregation and housing desegregation is Pearce's (1980) exploratory analysis of the degree of change in residential racial balance in seven matched pairs of school districts from 1970-75 showing the desegregated school districts to have substantially greater reductions in the residential segregation of blacks and whites than the segregated school districts. (Of the few cities with sizable Hispanic population that were studied, only in Riverside did there appear to be a relationship between residential and school desegregation.) It appears that in areas where the desegregation plan is broadest in scope, residential desegregation tends to be even greater. Moreover, this effect is not limited to the first few years of desegregation, but continues at least into the second decade (Pearce, 1980, p. 35). Although this is the only quantitative research on the issue, there is a wealth of relevant experience in desegregated communities which can be drawn upon in developing policy recommendations.

School Desegregation Plans Should be Designed so as to Preserve Integrated and Racially Changing Neighborhoods

One major factor which stabilized residential neighborhoods is the traditional neighborhood school pattern. With neighborhood schools, it often happens that a small in-migration of minority residents into an all-white neighborhood creates a school with a disproportionately large minority enrollment, which serves to accelerate white flight from the neighborhood and leads to both a segregated school and shortly thereafter a segregated neighborhood. The right kind of desegregation plan can have the opposite effect—slowing the process of racial change and encouraging residential integration. The ideal desegregation plan for this purpose should have the following components:

1. The desegregation plan should be based on accurate projections of racial composition for several years in advance, rather than using existing figures which may be out of date before the plan is implemented. In particular, projected increases in Asian and Hispanic populations, especially in urban centers, should be taken into consideration by relocation planners.
2. Mixed and changing neighborhood schools should be designated as schools where students will not be bused out. In many cities, the whites in these neighborhoods are bused in one direction in order to desegregate a ghetto school while minorities are bused in the opposite direction to further desegregation in a white

neighborhood. This is an invariable consequence when a computer program is used to minimize the total amount of transportation. Instead these schools should be designated as exempt from busing. This exemption is important because it "counteracts negative market tendencies and reinforces positive individual inclinations" (Pearce, 1980, p. 42).

3. These neighborhood schools should also be given guarantees of racial stability in the schools through a provision to expand facilities with portables, through annual adjustment of attendance boundaries where this is helpful, and through the promise of busing-in white or minority students as needed to supplement the racial enrollment Since this means one-way busing for the whites or minorities brought into the area, they should be drawn from nearby areas so that busing times will be short and there will be a tendency for the sending and receiving neighborhoods to recognize that they have a common interest in residential stability.
4. Integrated schools should not be exempted if they are integrated, not by a racially mixed neighborhood, but by the voluntary transfer in of minority students as was done in Los Angeles. This provides no incentive to neighborhood desegregation and increases the busing distance of others.
5. Adjoining segregated neighborhoods can be placed in the same attendance zone to create a no-bus "integrated" neighborhood as long as there is some reasonable chance that whites will be willing to move into the minority area and minorities into the white

area sometime in the future so as to make it truly residentially integrated.

Illustrative examples. In Stockton, neighborhood attendance zones were examined, and redrawn where necessary to create schools which would then be exempt from busing. As a result, Stockton experienced white flight in two directions: out of the school district into the central city where the integrated neighborhoods existed.

The highly segregated Philadelphia school system has done some interesting things to maintain racially mixed neighborhoods, including creating a small twelve-grade 50% black school serving a pocket of whites surrounded by a large ghetto, and constructing magnet schools to serve racially mixed neighborhoods. Baltimore, another highly segregated school district, has established middle schools to maintain racially mixed neighborhoods. In Louisville, integrated neighborhoods are exempt from busing and the local fair housing organization has vigorously promoted living in these areas as an alternative to busing.

School Desegregation Plans Should Provide Incentives to Segregated Neighborhoods to Desegregate

Rarely is any neighborhood, particularly a white neighborhood, able to establish a collective will to encourage opposite-race families to move in, although there are some examples in Oak Park, Illinois, and Shaker Heights, Ohio, where white neighborhoods have worked to attract blacks in order to decrease the pressure of black in-migration on adjoining neighborhoods in danger of becoming segregated. A school desegregation plan can encourage racial desegregation of housing by providing incentives to neighborhoods which receive opposite-race in-migrants. One important incentive would be to exempt the area from busing as soon as it reaches a certain level of racial integration. An effective desegregation plan would ideally include coordination with other city agencies in helping to provide information to these neighborhoods and organize them politically so that they can work to attract minorities, or alternatively, to accept scattered-site public housing or use Section 8 subsidies to relocate them.

Illustrative examples. The St. Louis desegregation plan provides that the students in any formerly white neighborhood with a 20% resident school enrollment are exempt from being bused out. In Louisville-Jefferson County, the Kentucky Commission on Human Rights (1975) publicized those neighborhoods blacks could move into and be exempted from busing because they were integrating the attendance zone. As a result, blacks have moved into suburban Jefferson County and many white neighborhoods have begun actively recruiting them. In Wichita, white students are bused based on a birth-date lottery, unless they live in an integrated neighborhood.

School Desegregation Plans Should Provide Incentives to Encourage Individuals to Move into Communities Predominantly of the Opposite Race

A segregated neighborhood school assignment policy provides major costs to minority or white families who are considering the possibility of moving into an area occupied predominantly by the opposite race. Persons who do so are confronted with the fact that their children will be placed in an environment made up largely or entirely of opposite-race students. A school desegregation plan eliminates this cost, but provides no positive incentives.

One incentive to induce individuals to move into opposite-race neighborhoods is to guarantee that these students will not be bused, except if the family desires it, even if they do not constitute a large enough group to create an integrated school. This is difficult to do if a grade reorganization system is used such that all elementary school students attend grade five in minority areas and grades one through four in white areas (a typical desegregation plan in communities whose schools are 20% black). Then the student who lives in a particular neighborhood will have to ride the bus along with his/her neighbors regardless of his/her color. Since most plans where whites are a majority bus students from white neighborhoods, minorities still have an incentive to move into white areas under a total grade reorganization plan. There is a disincentive for whites to move into predominantly minority areas, however, since they will find their child being bused for more years than if they had stayed in their white neighborhood.

One way to ensure that individuals who have desegregated neighborhoods are not bused and yet still maintain racial balance in the school system is to establish magnet schools throughout minority neighborhoods and provide a guaranteed seat in these schools for white families who have moved into these neighborhoods.

In most districts, locating magnet schools in white neighborhoods is not as useful as placing them in minority neighborhoods. This is partly because the minorities in white neighborhoods would experience less busing than whites in minority neighborhoods and partly because the magnet schools in white neighborhoods would serve as a haven for whites who resist being reassigned to ghetto area schools.

A supplementary strategy for ensuring no busing for those who move into one-race neighborhoods is to design a plan which reassigns only a portion of each grade, leaving a full range of grades in both minority and white neighborhoods. Under these conditions, there will be a neighborhood or nearby school serving the minority students in white areas at every grade level and a similar school for whites in minority neighborhoods. The family moving into the opposite race neighborhood then has the option of staying in their neighborhood for all grades or being bused out. These desegregation strategies should ultimately reduce the amount of busing.

Illustrative examples. In Louisville-Jefferson County, any students moving into an area where they are a racial minority are immediately exempt from busing (Kentucky Commission on Human Rights, 1980). In Wichita, black students are bused according to their address and if they move out of a predominantly black area, they are exempt (Pearce, 1980, pp. 42-43).

School Desegregation Plans Should Include the Creation of a School District Office Concerned with Eliminating Housing Segregation

Since eliminating housing segregation eliminates the need for busing, it would seem to be to the advantage of a school district to be concerned with housing. However, school district administrators are educational experts rather than experts in housing. There does not appear to be a school district which has the expertise to systematically attack the housing issue (although Riverside comes close). To foster integrated housing, school districts should establish an office explicitly concerned with this problem. This office would have six major functions:

1. Prepare policy analysis and policy recommendations for the school board and for publicizing the school board's position.
2. Develop an overall plan of housing patterns, either by its own staff or by local housing agencies. Such a plan would attempt to project the pattern of residential movement of minorities and whites into the future and thereby identify areas which are

likely to be good targets for the school district's efforts, either to prevent resegregation or to introduce integration.

3. Coordinate the school district's efforts with other agencies and lobby for effective policies which would help the school system. Examples of coordination might include making decisions jointly with the housing department about the siting of magnet schools to develop new residential areas. The school district might also be able to encourage local public housing agencies to locate public housing so as to reduce the need for busing; or the school district might review all proposed private subdivision developments in order to minimize their adverse effect on school desegregation.
4. Advise the school district on the best use of its real estate parcels. Many school districts own land originally purchased for school construction and which is no longer needed for school plants. The wise disposal of this land in such a manner as to further housing integration would obviously be very useful.
5. Through its own staff, or the staff from another city agency, ensure that counseling services are provided to families. This is especially important for families eligible for Section 8 subsidies who would benefit from making a desegregating move, but who might be quite unfamiliar with opportunities available to them. The counseling office could also provide useful services to white families returning to the city. Of particular interest would be counseling services provided for teachers who are often assigned to schools in opposite-race neighborhoods as a result of desegregation and who might wish to live closer to their work.

6. Provide liaison services, in some cases, with neighborhood improvement groups. Such groups may be able to organize a drive to exempt their neighborhood from busing by recruiting opposite-race residents or subsidized housing. The latter could be either new construction or subsidies applied to existing buildings. An organizer and technical assistance person might be very helpful to these neighborhoods.

The office should be staffed by someone who has proven expertise and experience in the housing and real estate field and a commitment to school desegregation, and it should be served by an advisory board of persons who bring expertise, influence, and channels of communication to other government and private agencies.

Illustrative examples. The Riverside Unified School District has been performing many of these tasks for the last ten years and as a result all but four schools are integrated by the neighborhood attendance zone.

The Jefferson County, Kentucky housing authority figures show 722 of the 1413 black families who signed Section 8 leases since 1975 moved into white suburban Jefferson County (still part of the Louisville-Jefferson County school district). This was possible only after the merger of the separate city and county agencies into one office which counseled families and coordinated their moves. While not part of the school system in Louisville, this activity is one school systems could promote or facilitate.

Local Housing Agencies Should Encourage Scattered Site Housing

One way to desegregate housing is to locate subsidized housing units likely to serve minority persons in segregated neighborhoods. Each site should be relatively small and sites should be scattered throughout the school district. Desegregation plans, in turn, can take these housing programs into account.

Illustrative examples. In Charlotte, North Carolina, the Community Relations Commission worked with real estate brokers and housing officials to encourage predominantly white neighborhoods to accept scattered site housing. The community was receptive to the idea because these neighborhoods would then be exempt from busing. Interviewees in Denver, Minneapolis and Seattle report that scattered site housing was employed to further school desegregation.

School Desegregation Plans Should Include Local and Federal Housing Agencies as Parties

A number of cases have shown that federal and local housing policies have furthered segregation of neighborhoods and hence segregation of schools. It follows logically that a desegregation remedy should include these actors as well. The requirement that subsidized housing be located so as to further desegregation is one obvious way in which housing agencies, both local and federal, can share in creating a desegregated school system.

Illustrative examples. The two most significant cases in this regard are those in St. Louis and Yonkers, New York.

Community Preparation and Involvement

Between the time the court order comes down and the time school desegregation is actually implemented, the school district has an opportunity to prepare parents and the community for desegregation to ensure that it will be implemented smoothly and work well. In most cases this opportunity is not well used.

The fears of parents of violence in the schools, of the unknown, and of losing control of their children's lives have important effects on their behavior and, ultimately, on the outcome of desegregation. It is up to the school district and the political and business leadership to deal with these anxieties if desegregation is to be successful. Yet typically the school district ignores parents and community groups, the mass media exacerbates their fears by covering white flight and protest, and the business and political leadership remain silent.

Post-implementation parental involvement in the schools may ultimately be as important as pre-desegregation involvement if it gives parents the feeling that they have some control over their children's education and their future. Many administrators and teachers, however, see education as a professional matter in which laymen should not intervene. When the context is a highly charged political issue such as school desegregation, that kind of attitude may only create more problems for the school district.

In Presenting their Views to the Community, Proponents of Desegregation Should Emphasize the Educational Programs that Will be Available as a Result of the Court Order or School Board Action

One of the peculiarities of school desegregation litigation is that it is one of the very rare cases where a defendant is found guilty of a violation of the law and is ordered to take an action which is not a punishment or a cost. A court trial is ordinarily a zero-sum game; what one party gains, the other loses. In civil cases, the guilty defendant is required to pay damages; in criminal cases, he pays a fine or is imprisoned. It is thus only natural for the white community to assume that if it has been found guilty of segregation, desegregation is the punishment. Proponents of desegregation do not like to debate whether desegregation is beneficial or not and will often reply to such an argument by simply pointing out the constitutional mandate for the elimination of illegal segregation. Doing so, however, only feeds the anxieties of the white community by stressing the fact that they have been found guilty and implying that they should be punished. For this reason, it is important to stress that desegregation of schools does not harm white children, and that it is an opportunity, not a punishment.

Perhaps because demands for desegregation usually come from minority groups, school officials often fail to provide minority parents with information about the potential benefits of desegregation. For example, Hispanic parents need to be assured that bilingual and other special programs can and should be part of desegregation plans.

Evidence. There is no research on this question in the context of desegregation but research on political attitudes and conflict resolution illuminates the way in which zero-sum thinking dominates public attitudes about policy making.

Several experts interviewed stressed the importance of conveying positive changes from desegregation rather than justifying desegregation in terms of the past wrongs done to minorities. Hawley (1981b) cites theory and studies suggesting that, under some conditions, school desegregation creates opportunities for introducing new programs. Noboa (1980) shows that desegregated school systems are more likely to offer bilingual programs than are those that are predominantly of one race or ethnic group.

Illustrative examples. Desegregation in Boston led to the introduction of numerous new programs that created opportunities for both black and white students (Kozol, 1980).

Positive Media Coverage

Since the greatest white flight occurs in most school districts in the year of implementation, those who have fled are people who have never tried desegregation. Typically, these individuals do not know anyone who has experienced desegregated schools, yet they believe their children's education will suffer when their schools are desegregated. The question is, from what source do they get their information? In most cases, the answer is the mass media, directly or indirectly.

This is also true after school desegregation. Few parents have contact with any more than a few other parents and so rely on the mass media to tell them how school desegregation is faring, what kind of education their children are receiving, and particularly what kinds of disturbances and racial tensions exist in a community. The mass media thus can have a substantial impact on the climate of opinion in a community and in so doing on the outcomes of desegregation.

Because the mass media serves as the source of information on the costs, benefits, and risks of school desegregation, it is important that some agency provide the newspapers and television with positive stories on desegregation and positive evidence on school performance, both before and after desegregation and with press releases about new and innovative school programs. This is a full-time job which requires someone skilled in public information and marketing. While the school district might be willing to undertake such a job after school desegregation is implemented, it is unlikely they will do so before implementation. During this time period some other agency, perhaps in the state government, will have to do it.

In districts with national origin minorities, care should be taken to use the language and media of the NOM group whenever possible, and to emphasize the interrelationships among civil rights initiatives resulting in race desegregation and those leading to bilingual education programs.

States can also play an important role in facilitating positive media coverage by collecting information about desegregation in their states and providing this information to the media.

Evidence. Although the media have a liberal reputation among those opposed to busing, researchers who have done content analyses (Rossell, 1978b; Stuart, 1973; Cunningham & Husk, 1979) find the press tends to emphasize anti-busing protest, white flight, and interracial conflict as a product of desegregation. In addition, this negative coverage is correlated with white flight (Rossell, 1978b) and with negative parental attitudes toward desegregation (Allen & Sears, 1978).

Illustrative examples. One important activity the school district can initiate during the pre-desegregation period which will not make them look like they are "pro-desegregation," but which almost always results in positive media coverage, are organized bus trips for white parents to visit minority schools. This was perhaps the only positive coverage of desegregation in Los Angeles during the pre-desegregation year. The L.A. Times extensively quoted the white parents who went on these trips as to how much better the schools were than they expected, how learning was actually going on, and how the distance did not seem that long when someone else was doing the driving.

The superintendent of the Charlotte system said he could not have accomplished what has been done without the cooperation of a supportive media--both in print and the electronic media. In that city, there was live TV coverage of discussions of the desegregation plan. In New Castle County, Delaware, and Louisville, Kentucky, well-planned efforts to cultivate a positive relationship with the media have been undertaken. In New Castle County, private industry helped with the needed effort. In Louisville, "self-censorship" agreements were worked out with local newspapers.

In Columbus, a citizen's group worked closely with the schools and the media to provide reporters with information and news sources.

In Massachusetts, the state education agency has contracted with the University of Massachusetts to collect information about desegregation in that state and elsewhere and to provide that information to the agency for dissemination to the media.

Parents Should be Provided with Clear and Full Information about the Desegregation Plan and Its Implementation

School systems cannot depend on the media to inform parents about desegregation nor will community-wide committees serve as a vehicle for communicating with parents. Thus, school districts should develop ways of informing parents about desegregation and should develop written understandable, upbeat materials that spell out the details of the plan, its rationale, and the nature of the services students will receive. The best approach may be to emphasize the quality of the schools students will be attending at the same time that the logistics of the pupil assignment plan are spelled out. In systems with limited English speaking populations, information should be provided in the native language of those persons. "Walk-in" parent meetings should be held in neighborhoods. Teachers can be the best sources of information and might be encouraged to visit parents in their homes. School-level committees, perhaps supplementing PTA organizations, can serve important communication functions. We discuss this approach in section D-2 below.

Evidence. This proposition is agreed to by almost all the experts interviewed. Particular emphasis was placed by these experts on the need to communicate to minorities what the purposes of the plan are and what services will be available. Many school systems seem to assume that minority populations, especially blacks, support the desegregation effort. Confusion about the details of the plan seem to increase opposition to desegregation (Allen & Sears, 1978).

Supportive Community Leadership

Encouraging local and neighborhood leaders to play a more positive role in desegregation controversies can be an effective strategy for influencing positive public reaction to desegregation. Leaders of the same race and ethnicity as the persons they hope to influence will be most effective.

Evidence. There is no empirical evidence that community-wide leadership has any influence on white flight and protest (except indirectly by contributing to the slant of newspaper and media coverage) (see Rossell, 1978b).

This may be because desegregation is an issue area where there often is no leadership from city officials or business leaders when the desegregation plan calls for substantial reassignment of students. The evidence suggests that if leadership activity is to be successful in minimizing negative reactions, the activity should be at the neighborhood level (see Hayes, 1977; Taylor & Stinchcombe, 1977) or from religious and social groups in which the individuals influenced are members. Thus, while it is clearly desirable to have community-wide leaders endorsing desegregation, announcements from afar about the need to obey the law may not be sufficient when anti-busing leaders are actively influencing opinion and behavior at the grass roots level. It is important to constrain protest since the available research suggests that protest demonstrations exacerbate white flight (Rossell, 1978b).

Behind-the-scenes activity in which various groups are bought off, blackmailed, or cajoled into acquiescence or even support may, however, be influential in shaping behavior. On the basis of experiences in Boston, Louisville and elsewhere, political leaders who build their careers on their opposition to desegregation may not last long after the desegregation plan is implemented. The case evidence suggests that opposition to busing is usually a source of only short-term glory.

Illustrative examples. The Catholic hierarchy, for example, can be influential in announcing that their schools will not serve as a haven for those fleeing desegregation. In Cleveland and Milwaukee, the Catholic hierarchy has taken this position with the support of most nuns and priests. If the rule is enforced, it can have a significant impact on reducing white flight and perhaps improving the legitimacy of desegregation.

Establishing Multiethnic Citizen-Parent-Teacher-Student Committees to Assist in Planning and Implementing the Desegregation Process

Many school districts have formed broad-based citizens' committees to work with school district personnel in designing the desegregation plan. These committees typically represent all major racial and ethnic groups, parents, and educational, business, and political leaders, and they are usually system-wide. Their authority can vary from having a formal veto power (highly unusual) to being an informal advisory group. The major purpose of these committees is to maximize the acceptability of the plan, given the constraints imposed by a court or other governmental agency, to the community. The range of issues in which such committees are involved also varies but usually such a pre-implementation group examines plan details, and assists in designing and developing the implementation procedures such as pre-desegregation school visits or establishing and operating crisis information centers.

Such committees should equally represent all racial and ethnic groups (even if that means they represent a disproportionate percentage of the population) and all elements of the community. Where more than one national origin minority group resides, separate meetings and committees should be established by language group, to ensure maximum parent participation and accurate dissemination of information. The committee that serves to facilitate initial desegregation may not be appropriate to the implementation of the plan, depending on how the committee is formed. One difference might be the relative role of parents and it seems desirable to find some way to select parents that will ensure that they represent the views of other parents. School-level parent involvement is also important and that strategy is discussed in the section of this report on structural and curricular changes in desegregated schools (see pp. 81-130).

Evidence. While there is no hard evidence supporting the efficacy of these committees in increasing community acceptance or reducing white flight and protest, the experts interviewed agreed that such committees are important to effective desegregation. The qualitative literature supports pre- and post-implementation strategies calling for parent involvement in planning and monitoring school desegregation to avoid resegregation. Miller (1975), Arnez (1978), Demarest and Jordan (1975), Wright (1973) and Hall (1979) each call for more community involvement to prevent resegregation resulting from disproportionate minority suspensions or "pushout" practices.

One study of school officials from throughout the southwest (Murphy, 1980), cites this strategy as a mechanism for reducing resegregation. Experts seemed to agree that while non-parent citizens can play important roles in such committees prior to the implementation of desegregation, once the initial steps have been taken the role of parents should be increased.

Illustrative examples. School officials in Tampa and Riverside believe the existence of these committees was critical in minimizing protest prior to desegregation and ensuring peaceful implementation. This in turn tends to reduce white flight. It is important that such committees work closely with the school administration and have their cooperation. In Los Angeles, the citizens' committee was appointed by the court and had an adversarial relationship with the school administration and their plans were rejected. This experience suggests that in planning stages, these committees should probably be appointed by the school district.

One example of the type of problems that can be avoided by the effective involvement of minority parents is suggested by Milwaukee's experience. In that city, notices to parents specifying options about schools and/or programs to choose from were sent out in English with no translation provided until after the deadline for submission of choices. As a result, many Hispanic parents exercised no choice for their schoolchildren. Some redress did eventually occur, but the active involvement of Hispanic parents could have prevented this situation.

Community Preparation Before Desegregation Should Include the Maximum Number of Parent Visits to Other-Race Schools

Parents whose children are reassigned in a desegregation plan normally know nothing about the school to which their child has been transferred. In this situation, irrational fears based on media-influenced stereotypes will take hold. A key element of community preparation might be a pattern of exchange visits between schools. The parent fact-finding committee can do some of the work, but all parents should be involved in visits to the new school.

One successful type of visit takes the form of an "open house" when staff and parents in one school play host to the other with a celebration atmosphere of cakes and cookies accompanying visits to the classroom. As noted above, these visits also provide the material for positive media coverage of desegregation.

Evidence. There is considerable agreement among experts interviewed and in the qualitative literature that supports the idea that these visitation programs are useful in gaining acceptance of desegregation.

Illustrative examples. Such visits were very successful in Los Angeles in the schools where they were held. The past chairman of the Human

Relations Advisory Council in New Castle County reported how several Sunday Open House activities in all schools allayed the fears of white parents regarding the school facility in black neighborhoods while reducing black parents' fear of racism. In Denver a series of picnics and home visits were held which reportedly involved more than 100,000 people. In Louisville and Cleveland some parents rode the buses to the schools their children were to attend in distant neighborhoods and reported back to parents in their neighborhoods. Both Columbus and Dayton ran summer orientation programs for parents.

Maintaining Contacts with Parents who have Withdrawn their Children

In many communities, most of those who leave the public schools to avoid desegregation do not move out of the school district (see Lord, 1975; McConahay & Hawley, 1978; Cunningham, Husk & Johnson, 1978; Orfield, 1978; Estabrook, 1980). School systems should maintain contact with these parents, identify their concerns, and provide them with programs and information that might attract them back to the public schools. Parentteacher-student associations can play a major role in such recruitment efforts, but the school district should take responsibility for this purpose.

School districts might also try to attract parents back to the school system, and keep those already there, by creating all-day schools which will serve a child care function before and after school until the parent comes home from work. Such schools could be much more attractive to working parents than a private school where their child has to be transported in the middle of the work day to after-school day care.

Evidence. There is no evidence that this effort would be successful although there is evidence that many school districts experience less than normal white enrollment declines in the fourth and fifth post-implementation years (Coleman, Kelly & Moore 1975; Rossell, 1978a). This suggests there are parents willing to return to the public school system. The interviews of personnel in county-wide school systems also indicate that there are white parents returning to the public school system.

Illustrative examples. Little Rock, Arkansas runs day-care centers in its school system. Public school parents in Little Rock, Nashville and Charlotte have put together materials, invited private school parents and parents of pre-school children to the schools, and have carried on recruitment activities. The teacher's organization has launched a public relations effort including advertisements on buses. These "bring-em-back-alive" activities, however, are usually run by parents. School systems have not seen themselves in the business of marketing their product.

Organizing at the District Level for Continuing Implementation

Most of the literature and debate about school desegregation is focused on the pupil assignment plan and community preparation strategies on the one hand, and school level policies and activities on the other. How districts should organize so as to best promote desegregation receives little discussion despite some recognition by experts that this can make or break the implementation of the plan. Of course, many of the strategies discussed here have implications for what the district should do, that is, what things it should encourage and support, but there is little concern for how the governance and administrative systems should be structured.

In this section, we briefly present a number of ideas that, for the most part, are gleaned from interviews and the observations of the study group itself. While there is no real evidence, aside from a relatively lengthy discussion of monitoring commissions, that these proposals are effective, it seems obvious that district-level organizational structures will affect the success of desegregation plans.

Organization of Essential Administrative Functions

As it does for school-level administrators and teachers, school desegregation places new demands on district-level administration. If no effort is made to establish a discrete administrative capability responsible for fostering effective desegregation, it is unlikely that the opportunities created by desegregation will be realized, or that the problems it introduces will be dealt with adequately. But, establishing a separate office for desegregation may reinforce propensities to see desegregation as something apart from the central functions and activities of the district. This in turn may lead to failures to adapt to desegregation and to coordinate the full resources of the district in ways that break down the false dichotomy between educational equity and educational quality.

The answer to this dilemma seems to be to establish a small, professionally staffed unit in the superintendent's office with the responsibility to enhance the motivation and capability of the operating agencies that administer the central functions of the district. If there is resistance to desegregation within the administration, it will not be overcome for long, if at all, by "going over the heads" of key administrators. An example of how such an office would operate is that it would work with the administrator(s) responsible for curriculum to make human relations objectives an integral and well-integrated element of the learning activities for all subjects. (For a discussion of human relations strategies, see the following section of this report.)

Of course some districts may be so recalcitrant that judges or state agencies find it necessary to displace all or some of the authority of the superintendent by establishing a "desegregation czar" and an operational office. An example of this approach is Cleveland's Office of Desegregation Implementation. But the very concept of a "czar" raises questions about the viability of this technique and it should be seen as a last resort.

In addition to fostering the attainment of human relations objectives through the "regular" curriculum, there appear to be some special desegregation-related needs of the system that this unit can address through technical assistance or the identification of external expertise and resources. These include:

1. Facilitating linkages between various special education programs whose coordination, which is always difficult, is often exacerbated by desegregation.
2. Coordinating and enriching the inservice training program. This should not lead to centrally developed inservice training (see pp. 131-171 below) but it could result in the better use of external resources, such as those available through State Agencies, and the identification of individuals and programs within the district that can be helpful to others.
3. Encouraging expertise in financial management and full deployment of external resources (cf. Colton & Berg, 1981).
4. Facilitating community and staff review of instructional materials and patterns of participation in extracurricular and elective offerings, in order to eliminate biased presentations and to ensure inclusion of relevant minority contributions.
5. Conducting formative program evaluations. It is important to the capacity of the school system that principals and teachers, as well as parents, be provided with information about how well the process in general is proceeding and about the effectiveness of particular programs. Schools can learn from each other's experience but only if the district works at it. Evaluations should treat the different racial and ethnic groups in the district as distinct populations.

This office might be the unit with which the district's housing expert is affiliated (see pp. 57-59 above).

Establishing Mechanisms for Monitoring Compliance and Effective Implementation

If there were not serious problems of commitment to desegregation within the school system, there would be no need for the court and state agency actions that usually motivate comprehensive desegregation plans. Thus, the desegregation process will be expedited in most districts by some type of monitoring committee. It seems important, however, that systems realize the incongruity of the watchdog functions of such a committee and the facilitative, supportive functions of the administrative desegregation unit proposed above. Placing these two different types of roles in the same agency will probably result in neither being performed very well.

Many court orders have specified that a citizen's committee monitor the operation of the desegregation plan. The primary function of a monitoring group is to provide information about the degree of compliance with the remedy order--primarily to the courts or civil rights agency ordering the remedy, but secondarily to the public in general and to the schools. Formally, the responsibility of monitoring committees is to verify for the court that the order is being met. In practice, they have proved useful in identifying a wide range of education problems that arise in the desegregated school district and in many cases this has led school systems to act to resolve the problems involved. A monitoring committee, which school districts themselves might establish, can assist desegregation by helping create a climate of public opinion which is concerned with school quality rather than with debates about the merits of busing.

Hochschild and Hadrick (1980) have analyzed a number of monitoring groups. In addition to the more obvious conditions which determine these groups' effectiveness, such as leadership, commitment, organization and funding, Hochschild and Hadrick's analysis reveals that differences in mandate, strategy and purpose have a great impact on the viability and success of these groups.

Illustrative examples. Denver's Community Education Council (CEC) is one of the most successful and influencial monitoring commissions. Initially, the mandate to the CEC was unclear, but eventually the Council was given the power to see all district proposals which would have an impact on the system's desegregation efforts, and it received quasi-party status in the courts. This degree of autonomy appears to have been a crucial factor in the Council's effectiveness. In contrast, it appears that the difficulties of the Los Angeles Monitoring Committee stem in large part from the ambiguity of the court's mandate for the committee (King, 1980; Hochschild & Hadrick, 1980). Community members recruited for participation in subcommittees eventually lost interest because there was no clear understanding of the function or role of the group.

There seem to be two distinct approaches to the monitoring process: system-wide research and analysis on the one hand, and specific problem-solving on the other. The Denver CEC is organized around complaint resolution and has succeeded in effecting several programmatic changes, such as getting Judge Doyle to order activity buses for children who want to participate in extracurricular activities. Its quasi-party status allows it to participate as well in long-range planning, as it has petitioned the court for hearings on affirmative action, inservice training and pupil assignment. The Tri-Ethnic Committee in Dallas is structured around individual complaint resolution and has succeeded in achieving the institution of a uniform discipline system which provides a three-party hearing for students charged with infractions of disciplinary codes.

The monitoring groups in Portland and Boston are examples of the systemic approach to overseeing desegregation implementation. Basing many of its recommendations to the court on public forums, questionnaires, and the results of national research, the Community Coalition for School Integration in Portland helped develop the Comprehensive Desegregation Plan which was submitted to the School Board in April 1980.

The Office of School Monitoring and Community Relations (OSMCR) in Cleveland provides a good example of how monitoring groups can build community support for school desegregation. The strategy behind OSMCR is data collection rather than complaint solicitation, and the organization apparently has succeeded in providing extensive information to the community that has helped to reverse the trend of stiff community opposition and resistance to desegregation.

Some monitoring groups have been able to work with the media to ensure accurate and fair coverage of desegregation issues. This positive relationship was cultivated, for example, in Cleveland, due to the efforts of OSMCR's full time press secretary who had previously been a journalist.

Involving Teachers and Principals in the Development of Desegregation-Related Policies

It seems safe to say that the most important determinants of effective school desegregation are the commitment of teachers and principals to the plan and the capability of school-level personnel to implement it and to go beyond the minimal activities it prescribes. A basic management principle concerning motivation and skill development is that those who must implement a program should be involved in developing the relevant policies and practices (Berman & McLaughlin, 1978). Few districts, however, involve principals, much less teachers, directly in the plan and in program development. In particular, teachers' unions, when they decide to do so, can make important contributions to effective desegregation. An example of such a contribution is the interpersonal relations training program developed by the United Federation of Teachers in Detroit.

Strengthening the Public Information Function

When desegregation occurs, people want to know more about the schools. Too often, the information they seek is not available and rumors and anecdotes, usually negative in character, dominate the information flow. Thus, establishing a professionally staffed public information office should be a high priority for desegregating districts (see pp. 63-65) above, for further comment on this activity).

Strengthen Evaluation Capabilities

Desegregation creates needs for information and new programs require assessment. School systems undergoing desegregation will also experience increased demands for accountability. While some districts resist accountability demands, such resistance feeds suspicions of poor quality and is counterproductive. A capacity for sophisticated evaluation of activities can provide important management information that usually helps in the improvement of programs and the allocation of resources. For example, simplistic reporting of test scores invariably understates the effectiveness of school system efforts to improve educational quality.

While there is no evidence on what the consequences of such a program might be, some members of the study team believe that school districts should be required to provide detailed information about achievement and student attitudes for each major ethnic group in each school, including those omitted from the plan. The purpose of this is threefold: to identify the unsuccessful schools, so that they may receive special help; and to identify the strengths and weaknesses of the overall desegregation plan, so as to allay needless fears and concentrate the public's and the school district's attention on the real problems.

This can be done by employing an independent specialist to analyze school-level achievement data for each major ethnic group, and requiring schools to administer questionnaires to students, principals and teachers in each school. (Such questionnaires are commonly used in evaluations of special programs; they are not, however, used routinely by school districts for self-evaluation.)

Crain, Mahard and Narot (1981) argue that the court or civil rights agency can do little directly to improve school quality or ensure building-level compliance with the spirit of a desegregation order. But the court can do a great deal to establish a climate of intelligent discussion about school problems. Parents have very little way to know if their own school is doing an adequate job. Published test scores are little help, since they normally pool minority and majority students who may come from very different neighborhoods and economic backgrounds. Test scores will normally show wide differences between poor and wealthy neighborhoods, and only a trained analyst with access to past as well as present scores can identify schools in neighborhoods whose performance is above or below what can be considered average. Armed with this information, the school system and the public would be able to focus attention on problem schools and use exemplary schools as models.

Structural and Curricular Changes in Desegregated Schools

In the Detroit case, a federal judge ordered the adoption of various educational components as appropriate remedies to past segregation. The U.S. Supreme Court confirmed these aspects of the desegregation plan were justified by the Constitution, saying that "pupil assignment alone does not automatically remedy the impact of previous, unlawful racial isolation" (433 U.S. 282, 287-88). Regardless of the judicial mandate, however, school systems that expect to achieve effective desegregation need to be concerned about how schools respond to the educational and social needs of the students involved.

Because school desegregation is often preceded by years of litigation and controversy about the creation of racially or ethnically mixed schools, it is all too easy to think of desegregation in its narrowest sense and to assume that once racially mixed schools have been set up, the desegregation process is complete. However, it is crucial to recognize that it is precisely at this point in the desegregation process that interracial schooling begins for the students and that the nature of students' experiences is crucial to their academic and social development. Thus, this section of the report identifies a number of policies or practices which there is reason to believe will help to create school and classroom environments which will foster academic achievement and more positive relations between majority and minority group members. Effective intergroup relations also discourage voluntary resegregation among students--such as that commonly observed in cafeterias and playgrounds. They also reduce the likelihood that students will be suspended for disciplinary reasons or segregated because they are erroneously assigned to racially identifiable special classes.

Many of these recommendations, such as those about tracking and the utilization of cooperative work groups, deal with the social structure of the school or its classrooms and with instructional methods. Other recommendations focus on building parental and student involvement with the school, with special attention to ensuring the participation of members of all groups. Examples of such recommendations are those relating to extracurricular activities and in-school committees. Still other recommendations are related to discipline policies.

Many of the recommendations in this section are based on the recognition that desegregated schools are often more academically and socially heterogeneous than segregated schools tend to be. This academic heterogeneity makes issues concerning tracking and ability grouping important to effective desegregation. Similarly, it suggests the use of cooperative team learning and other strategies of instruction that have been designed for academically heterogeneous classrooms. The social heterogeneity of desegregated schools, most vividly seen in their racial and ethnic diversity, requires the use of conscious strategies to ensure a reasonable balance of power and recognition among groups to foster interracial interaction, to encourage previously excluded groups to participate in the life of the school no matter which group the school previously served, and to foster equitable treatment for all students while being responsive to the different needs of students from different backgrounds.

One of the things about desegregated schools that many teachers find most discouraging is the apparent absence of close friendships between students of different races and ethnic backgrounds. The experts interviewed in this study tend to agree that such self-segregation, in itself, is not evidence that relations between groups are unfriendly. These experts emphasize that students group together for many reasons, such as neighborhood ties and non-academic interests, and that these are often related to racial or ethnic differences. In short, intimate relationships or first preferences for friends and playmates is a poor indicator of the character of race relations. This natural tendency for intraracial associations means, of course, that the interracial and interethnic interaction that is essential to achieving good race relations is not an automatic outcome of school desegregation and must be promoted through specific programs and activities of the school.

Most of the practices identified here have a much greater chance of success if administrators, teachers, and staffs are knowledgeable and committed. We deal with the issue of professional training in the final section of this report.

Maintaining Smaller Schools

Smaller schools may be more effective in achieving desegregation and fostering integration. All students are likely to participate in some extracurricular activities in smaller schools (500-1,000 students). There is less chance for anonymity and, therefore, less chance for marginal students to drop out because they have no investment in the school. Interaction among students, and between students and adults, is easier in an environment where many of the people know each other. This might make improving race relations easier to accomplish. Moreover, especially minority parents may feel more comfortable in smaller settings.

Whites usually overestimate the proportion of minorities in a given environment and, probably, the more non-whites in that environment (i.e., the larger the school) the more they overestimate. Thus, white flight might be reduced in smaller schools simply because the proportion minority will seem smaller and less threatening than in a larger school.

Small schools may also have disadvantages. Very small schools may be more costly to operate and may make it difficult to offer certain types of programs, especially when they are heterogeneous. For example, bilingual programs could be difficult to implement or maintain. On the other hand, one can imagine a small school organized around bilingual instruction.

Evidence. Barker and Gump (1964) and James Coleman and his colleagues (1966) have studied student participation extensively and conclude participation is higher and students feel that they belong more in smaller schools. The qualitative research and the school district interviews suggest that students are more likely to have interaction with most of their schoolmates in a smaller environment. In addition, a lack of order which parents perennially see as the biggest problem in the public schools (see Plisko & Noell, 1978), is demonstrably easier to achieve in environments which are characterized by interpersonal familiarity (Gottfredson & Daiger, 1979). Ultimately this should reduce white flight and improve instruction. Rossell (1980) found less implementation year white flight in Los Angeles the smaller the minority school.

While the studies do not deal with desegregation *per se*, Guthrie (1980) has reviewed the research on the relationship between school size and instructional outcomes and concludes, "small schools have the edge."

The study team itself was unanimous in its support of the principle of smaller schools and the view was shared by other national experts we interviewed. However, there was considerable disagreement about what the optimum lower (e.g., 250-500) and upper boundaries on size should be (up to 1400). Clearly, high schools usually need to be larger than elementary schools but even here it depends on the mission of the school.

Illustrative examples. Few desegregating school systems seem to have tried to maintain smaller schools for the educational reasons cited above. On the other hand, many magnet schools have been established and most of these are quite small. Discussions about these schools often stress the sense of community they are able to develop. Metz (1980), for example, describes a magnet school in Milwaukee whose small size has contributed to a sense of shared commitment among parents, teachers and students. The literature on alternative schools provides several examples of well integrated successful small schools (cf. Fantini, 1976).

Maintaining Smaller Classrooms

One belief that almost all teachers and parents share is that small class size makes for better schooling. Since enrollment in most school systems is declining rapidly and many teachers consequently face unemployment, a federal program aimed at retaining teachers in school systems that are desegregating could have positive educational consequences. It might also reduce white and middle class flight.

Evidence. A meta-analysis conducted by Glass and Smith (1978) demonstrates that classrooms with less than 20 students showed increases in achievement with reductions in size. Smaller classes also eliminate one argument used for within-class ability grouping. Teachers frequently argue that they need to break a large class into smaller, more homogeneous groups for instruction. A smaller class makes that less necessary.

There is no evidence that smaller classes would reduce white flight. On theoretical grounds one could reasonably argue that it would be easier to achieve harmonious interracial contact when class size is small.

Reorganizing Large Schools to Create Smaller, More Supportive Learning Environments

If smaller schools are impossible, large secondary schools can create smaller, more effective environments by dividing students into units or houses or clusters within which they establish most relationships.

Evidence. Qualitative evidence suggests that this approach is a particularly good way of reducing anonymity and marginality. It tends to keep misbehaving or low-achieving students involved and supported. It probably reduces minority suspension and dropout rates (Kaeser, 1979b; First & Mizell, 1980; U.S. Commission on Civil Rights, 1976; National School Public Relations Association, 1976). Teachers with fewer different students with whom they regularly interact are less likely to be victimized and the schools in which they teach are less likely to have high rates of student disorder (Gottfredson & Daiger, 1979).

Desegregated Schools Should Have Desegregated Staffs

School systems should provide all desegregated student bodies with desegregated staffs and faculties. A desegregated school with an all-white teaching staff will have more difficulty obtaining good student performance and preparing students for a range of adult roles. Minority students in a school with an all-white teaching staff are more likely to be faced with discriminatory behavior, lower staff expectations for their performance, discrimination in assignment to ability groups and in grades received, and are more likely to be alienated from the school. Moreover, it seems important that minority students have some background role models and that they see minority staff in authority positions. The benefits to national origin minority (NOM) students of same-background teachers would seem to be enhanced when NOM teachers have bilingual and bicultural capabilities.

Evidence. While the available evidence generally supports the ideas above, the research results also make clear that many teachers are as effective or more effective with students of another race than other teachers are with students of their own race. Given this, the available evidence, overall, supports the idea that staffs, especially teaching and administrative staffs, should be desegregated.

Bridge, Judd and Moock (1979) conclude from their review of the very limited research on the subject that minority elementary school students have higher achievement when they have minority teachers, other things being equal. The System Development Corporation (1980) study of ESAA human relations training indicates that minority teachers tended to afford minority students more attention in non-academic situations and to be more equitable in their instructional grouping. Epstein (1980) reported black teachers are less likely than white teachers to place black children in lower tracks. Beady and Hansell (1981) found no differences in the expectations black and white teachers (fifth and sixth grade) held for the performance of black and white students in elementary and secondary schools. Black teachers, however, did have substantially greater expectations for black students' college attendance and completion. Crain and Mahard (1978) show that black students of equal achievement test performance in schools of the same student racial composition will have higher grades if there are more black teachers on the staff, and will be more likely to attend college. They were unable to determine whether this was a result of negative bias on the part of white teaching staffs or positive bias on the part of mixed staffs, but the net effect is that minority students were better off in schools with more minority staff members. Arnez (1978) links disproportionate minority suspensions to a lack of minority teachers and principals.

There is no direct evidence on the impact of a racially mixed faculty on race relations in desegregated schools. Social psychological theory, however, would suggest a positive impact.

Interview data from local respondents and national experts strongly support desegregating faculty and staff. Sixty-five percent of those interviewed on the local level gave a racially balanced staff high priority, and national experts stressed the importance of a racially mixed staff in order to correct the perspectives of students about the relative status of minority and majority group members and to provide role models for minority students. Murphy (1980) reports that educators from several states say that racially mixed faculties are important to effective desegregation.

While minority teachers are often underrepresented in desegregated schools, bilingual education programs often have more than their share of Hispanic teachers, leading to overrepresentation in staff. In Riverside, this situation was criticized by the Office for Civil Rights (Carter, 1979).

Employment of Minority Counselors in Desegregated High Schools

Minority students in desegregated schools tend to benefit from having counselors of the same race or ethnicity as themselves. Such counselors are usually more effective in establishing a rapport with students, are more concerned with minority student well-being, and are likely to be more informed about minority scholarship programs and about admission to traditionally black colleges. A desegregated high school which has, at a minimum, one minority counselor will be more effective in keeping minority students in schools and in making progress at placing minority students in successful college experiences. Counselors in schools where students have limited English speaking ability should speak the language(s) of those students.

Evidence. Braddock and McPartland (1979) have shown that desegregation is self-perpetuating--that minority students in desegregated high schools are more likely to attend desegregated colleges. While this is what we would expect desegregation to do, the results may not always be beneficial for all minority students. (Thomas (1979) has shown that blacks in traditionally black colleges are more likely to obtain degrees than those who attend predominantly white institutions.) It seems likely that some black students in desegregated schools would benefit from knowledge about opportunities in traditionally black institutions. Crain and Mahard (1978) have shown that black students in predominantly white southern high schools which have black counselors are more likely to attend traditionally black colleges, presumably because black counselors are aware of such opportunities. More importantly, they show that students in high schools with black counselors are more likely to obtain scholarship aid in both black and white colleges. Minority counselors are likely to be sensitive to the needs and concerns of minority students and will be of more assistance than white counselors in placing students in traditionally black colleges. If the full benefits of minority counselors are to be secured, these individuals should have training in the nature of the opportunities in predominantly white colleges so that a desegregated college experience is made available to students who can do well in desegregated settings.

Illustrative example. A school board member and desegregation researcher in New Castle County stated that the loss of minority counselors following the implementation of the desegregation plan has contributed directly to the existence of one-race classes at the senior high school level.

Employing an Instructional Resources Coordinator in Each School

An instructional materials coordinator is a certified teacher who has no classroom responsibilities; the coordinator's function is to assist teachers in selecting and obtaining all sorts of teaching materials (books, workbooks, films, computer programs, etc.). The presence of such a staff person could raise achievement of both minority and majority students in desegregated schools. Desegregated classrooms often have very heterogeneous student bodies, and the traditional book-lecture-workbook approach is likely to not be adaptable. Teachers in the classrooms will need to use a wide variety of materials. Unfortunately, teachers do not have the time and knowledge to locate the materials they need, and a school coordinator is needed to do this.

An instructional coordinator can introduce high-technology equipment (TV, computers); plan complex school activities such as major field trips; and serve as a helpful and non-threatening colleague to help staff with specific problems.

Evidence. The Southern Schools report (1973) attempted to measure the impact on achievement of a large number of school resources. The high school resource which was most clearly related to achievement was the presence of a person whose title was "audio-visual coordinator." Less than 10% of southern high schools had such a person, but these schools had markedly higher black and white achievement. In a further analysis, Crain, Mahard and Narot (1981) found that these schools had unusually good race relations, and speculated that this was because students were more involved in school activities which were more varied and interesting, and because teachers, freed from the need to lecture continuously, had more one-to-one relationships with students.

One instructional resource is the computer, used for basic skills drills. The Educational Testing Service (Ragosta, Holland & Jamison, 1980) is observing an experimental use of computers (funded by NIE and managed by the Los Angeles schools). The school system has placed one full-time coordinator in each school, and ETS has concluded that even in a non-experimental situation, a coordinator is necessary.

Illustrative examples. The Jefferson County (Louisville) public schools have staffed their new middle schools with full-time instructional materials coordinators. This person serves not only to provide materials, but as a peer with whom teachers can talk with about problems. A related idea was also used in this district: an ESAA-funded Materials Workshop for teachers from a number of schools met once a month for a year. This was judged to be the most successful of all their ESAA projects. Not only did the group serve as a source of materials, but it also provided social support for teachers, many of whom were in buildings with weak administrators. Marshall (1975) describes his duties in this role at the Martin Luther King school in Boston. The Citizen's Council for Ohio Schools' (Kaeser, 1979a) publication Orderly Schools That Serve All Children describes the work of coordinators in several exemplary schools.

College Preparatory Programs in All Secondary Schools

Although magnet schools may reduce the perceived costs of desegregation, particularly to the middle class, they also may stigmatize the non-magnet schools in a desegregated school district. College preparatory courses offered in all secondary schools (except specialized schools) offer diversity to all students, prevent stigmatizing, and may help keep middle and upper middle class students in the public school system.

College preparatory courses in all schools will prevent class and racial resegregation within the public school system by keeping some middle class whites and minorities in the non-magnet schools (or withdraw them altogether) if the non-magnet school their child was assigned to had no college preparatory courses.

Evidence. The qualitative research supports the proposition that this will reduce white flight, but there is no quantitative evidence on the matter. There is indirect evidence that such programs have particular relevance to Asian Americans. Reanalyses of the Coleman data (Mayeske & Beaton, 1975; Boardman, Lloyd & Wood, 1978) have confirmed the importance of college preparatory programs to the aspirations as well as achievement of Asian Americans. Several experts interviewed emphasized the importance of this strategy.

Desegregated Schools Should Utilize Multiethnic Curricula

During the past fifteen years a considerable amount of effort has been expended on developing various curricular materials which reflect the diversity of the American population. This effort reflects a widespread consensus that such curricula have a positive effect on interracial and interethnic understanding. Two trends in such developments have been most notable. First, textbooks have been revised. Second, many schools have developed minority-oriented courses. These two trends are similar in that they both seek to provide students with more information about minority groups than do more traditional curricula. They are different, though, in that one incorporates materials of special relevance to minority groups within the regular curriculum, whereas the other tends to isolate it in special units or courses.

A great many school systems now say they use some type of multiethnic curricula. It is assumed that doing so will enhance ethnic pride and reduce negative ethnic stereotypes. Furthermore, the presence of such curricula, ideally, enhance the extent to which students receive an education which accurately reflects the contributions of various groups to American society. Ethnic studies courses are said by their advocates to serve some of the same purposes as multiethnic curricula. However, some authors argue against the use of minority studies programs in secondary schools on the grounds that they often do more damage by resegregating students than the good they accomplish. Other experts point out that ethnic studies courses should not be seen as a substitute for a multiethnic curriculum but rather an integral component of a comprehensive multiethnic curriculum which builds understanding of other cultures and knowledge about and pride in one's own. Multiethnic curricula can also be tied to the development of English-language skills by bilingual learners.

How can a good multiethnic curriculum be distinguished from an unsatisfactory one? It is not uncommon for publishers to tout as "multiethnic texts" books which are basically very similar to traditional texts but which have a few blacks or Hispanics pictured in them. Furthermore, the mere utilization of multiethnic texts hardly constitutes a multiethnic curriculum. As many authors have pointed out, a thorough-going multiethnic curriculum would be reflected in many other aspects of the school as well, including its wall displays, its library, and its assembly programs. The effectiveness of multiethnic curricula that address the needs of NOM students will be enhanced if a critical mass of such students is present in particular schools.

Evidence. Almost all experts and a good many qualitative articles and books stress the importance of multiethnic curricula to effective desegregation. There are several studies which suggest a weak but positive relationship between the use of multiethnic curricula and/or minority oriented courses and positive student race relations (Forehand & Ragosta, 1976; Genova & Walberg, 1980; Litcher & Johnson, 1969; System Development Corporation, 1980). A few studies show no effect, but there do not appear to be any studies which show a negative relationship. Even if multiethnic curricula have no consistently strong impact on race relations, they have the obvious advantage of tending to present a balanced and hence potentially more accurate picture of American society. Other research (Slavin & Madden, 1979) shows, however, that a multiethnic curriculum is less effective than interracial interaction in achieving better race relations. It seems likely that interracial interaction and multiethnic curricula reinforce each other and have an additive effect.

Illustrative examples. The Montgomery County School system is in the midst of developing a program whereby its own teachers will develop multicultural units for use in the system's schools. A carefully selected group of teachers will be paid during one summer to develop these materials which will then be introduced to other teachers during inservice training.

The necessity of examining closely material which purports to be multicultural is made clear by one study (Blom, White & Zimet, 1967) which found that a reader designed as part of an "urban multiethnic" series a) had more of its stories set in suburban than urban settings, b) had a higher proportion of "failure" themes than comparable "traditional' readers, c) devoted the stories about blacks exclusively to those about black families living in stable white neighborhoods, and d) restricted blacks in its stories to "family" roles rather than having them appear in both family and work settings.

In Minneapolis, the curriculum has been changed to reflect the background, heritage, and history of all minorities so that all students would understand contributions to America made by minorities. A board member interviewed for this study stated that not only did minority students learn about themselves but also, minority students learned that many of their beliefs about minorities were wrong.

Banks (1979) provides some useful checklists which schools can employ in order to assess the extent to which they do provide a complete multiethnic curriculum.

Desegregated Schools Should Maximize Parental Involvement in the Education of Their Children

There is strong consensus that involving parents in the school is an important strategy for success in desegregation. At both the elementary and the secondary level, the use of parent aides, either paid or volunteer, can be important. This is especially true if the aides are parents of the bused-in group, since this increases the school's channels of communication with the sending school community. At the elementary school level, parental involvement strategies are often intended to improve achievement by helping parents supervise homework and tutor students, both in the school and for their own children at home.

Many desegregating school systems lack the staff and materials to provide the enriched multiethnic curricular and extracurricular experiences that a school needs to offer in order to promote various desegregation goals. Utilizing parents, especially minority parents, as resource persons and as role models can be an effective means of overcoming such deficits. Such programs, however, tend to fade away over time and teachers and principals must know how to use parents in significant ways, if parents are to stay interested.

Evidence. No empirical study has examined the impact of parents working in educational roles in desegregated schools. The qualitative literature does offer support for this strategy. The U.S. Commission on Civil Rights (1976) and the Murphy (1980) reports both support this as a meaningful and effective strategy for reducing within-school racial isolation. Murphy found particularly strong support for using Hispanic parents, for example, as school resource persons to enhance multiethnic curricular content and orientation.

While there is little systematic evidence from desegregation studies relating to parental involvement, other research attests to the usefulness of this strategy. Shipman and her colleagues (1976), for example, found that mothers who said they felt welcomed and supported by their childrens' school, participated more in their child's education. Armor and his colleagues (1976, p. vi) found for black students (but not Hispanic students) that "the more vigorous were the schools' efforts to involve parents and community in school decision making, the better did [the sixth graders studied] fare in reading achievement." Coulson (1976) found achievement to be related to parents being more in the classroom. Wellisch and colleagues (1976) found that parent aides were more effective than paid "outsiders."

Illustrative examples. Charlotte, N.C. used parents as volunteers in tutorial programs. The superintendent there reports that 10,000 parents have served as volunteers in various activities.

A good inventory of ways to involve parents in schools is Working with Your Schools published by the U.S. Commission on Civil Rights' State Advisory Committees in Arkansas, Louisiana, Texas, and New Mexico.

Desegregating Schools Should Develop a Comprehensive Student Human Relations Program

Each school should develop a two-part human relations policy for its students: 1) curricular aspects of human relations inside the classroom, and 2) special programs for the entire school.

The classroom aspects of the policy would include multiethnic textbooks, role-playing projects and discussions of race relations as they occur in the classroom, the school, the community and American society generally. The most important classroom aspect of the policy would be to assign students to interracial teams to work together on class projects or otherwise create opportunities for black, NOM, and white students to interact. Obviously, these curricular changes should be thought out in advance and will not be as effective if introduced after the conflict has arisen. The programs that are most effective are those that are integral to the day-to-day learning experiences and social interactions students have. In other words, the more integrated with other activities and the less obvious they are, the more integration they are likely to achieve among students. One reason for this appears to be that teachers and administrators, while they may think good human relations is a desirable objective, often do not place this goal above other, more traditional, goals of schools--such as teaching reading, language arts, or history.

The special programs aspects of the human relations policy would include activities such as multi-racial school-wide student committees, special movies, assembly speakers, and school-wide recognition of the birthdays of minority political leaders and other important events in American race relations. One idea the panel found attractive is to teach students about the desegregation controversy in their own community, especially the reasons why the judge or the school board required desegregation. That is, what are the facts and issues in the local case.

These special programs should not be regarded as substitutes for the curricular aspects of the school human relations policy. Furthermore, the specifics of the individual special programs may not be as important as the fact that their presence symbolizes to students that administrators, teachers, and staff have a high regard for positive human relations. The more teachers and principals talk about the importance of good human relations and behave accordingly, the more impact specific programs are likely to have. It is very important that human relations programs begin at kindergarten (or before where appropriate) because attitudes toward other races and cultures may be significantly shaped by the time students are 10-12 years old. Human relations programs should seek to foster understanding and interaction among different minorities, as well as between whites and racial and ethnic minorities.

Evidence. Experts on school desegregation are in considerable agreement on the importance of human relations programs, although they differ on how much change they feel can be achieved through them. Most agree that interracial and interethnic contact is essential to making substantial gains. Textbooks are no substitute for more experiential learning. All experts agree that human relations programs should begin at the earliest grade as does the available research on the formation of race-related attitudes (Katz, 1976).

Slavin and Madden (1979) found that assigning pupils to interracial teams in the classroom was the most effective of the eight practices they studied for improving race relations among students. This practice was strongly correlated with positive racial attitudes and behavior for both whites and minorities. McConahay (1981) reviewed the experimental studies of interracial cooperative teams and found that across a variety of settings and a number of techniques for setting up the teams, the practice produced more positive attitudes and behavior and improved academic achievement in some instances. (For further discussion of cooperative team learning, see the strategy which follows.)

The effects of special programs or curricular materials on race relations were not as strong as those for interracial teams, but Slavin and Madden (1979) report some association with positive attitudes among whites. Crain, Mahard and Narot (1981) found that schools purchasing human relations materials had better race relations and the SDC Human Relations Study (1980) found that special programs directed toward students produced improved attitudes and behavior and improved self-concept among minority students. This study, the most extensive to date focused on human relations, also found that human relations programs were most effective when they were: (a) coordinated with the regular instructional program, (b) increased intergroup contact, and (c) supported by school and district officials.

Illustrative examples. Experts agree that the best types of human relations programs are those that are so well integrated with the curriculum, instructional practices, and extracurricular activities that it is not possible to identify them as being distinct programs. An example of an instructional strategy that subtlely involves human relations objectives is the various types of cooperative learning. However, more visible and limited programs can also have positive effects. Gwaltney describes student human relations programs that are conducted by a school district located in a large eastern industrial and commercial center where minorities comprise 53% of the student population (Carney, 1979b). Student communication workshops have been organized involving between 20 and 25 students per workshop, some parents, and one or two teachers, and are held during the school day at various locations including some outside the schools. Students participate in human relations exercises that are designed to increase trust and reduce threat among themselves and particularly among students of different racial and economic backgrounds. Teachers who attend are encouraged to continue the workshop exercises in the classroom. The court ordered the districts to implement a program in Cleveland in which students explore the history of segregation and the desegregation suit in that city. But, no evidence on that program's effectiveness is yet available.

In Shaker Heights, Ohio, the school system instituted a number of human relations activities for elementary school students. These activities included development of a resource room to which white and minority students may go for recreation after lessons are completed. The room is designed to encourage interracial interaction during play. Another activity is a hands-on program sponsored by a local museum. Students of different races are encouraged to interact in a learning environment outside the classroom.

Minneapolis secondary school students participate in the formulation of human relations guidelines and are involved in planning and conducting school-wide lectures and seminars of human relations topics. Over the school year, a variety of ethnic observance days are set aside and schools participate in programs designed to foster understanding of a number of ethnic cultures, not merely black and Hispanic. The Green Circle program has been implemented with apparent success in many school systems, including Nashville and New Castle County.

Provide Opportunities for Cooperative Learning, Including the Use of Student Teams, in Desegregated Schools

One set of techniques widely used to improve student relations, to improve the academic achievement of low-achieving children and minimize the problems of teaching academically heterogeneous classrooms is "cooperative learning." These techniques usually involve the creation of teams of students. Each team of roughly four to six students represents the full range of ethnic groups, ability, and gender in the classroom. Academic work is structured so that the children on each team are dependent on each other but also so that disparity in achievement levels does not automatically lead to disparity in contributions to goal attainment. So, for example, one team learning technique (Jigsaw) is structured so that each child is given information which all group members need to complete their work. Another team learning technique (STAD) gives rewards for improvement in academic performance, so that students with weak academic backgrounds have the potential to contribute as much to the success of the team as do the best students.

The work of Elizabeth Cohen and others (1980) on the Multi-Ability Classroom has shown promising results in fostering equal participation and influence in cooperative learning groups. The multiple ability approach is designed to counter the effects of status generalization in academically heterogeneous and racially integrated classrooms. Rosenholtz (1977), for example, found that children seen as high in reading ability and high in status in group reading tasks also have high status in groups with tasks that do not require reading.

There are many varieties of cooperative learning. For example, national origin minority children might serve as tutors in foreign language courses.

There is a considerable body of evidence which suggests that various types of cooperative learning techniques, a) lead to higher than usual academic achievement gains for low-achieving students who are involved, and b) almost always improve relations between majority and minority group children.

One of the advantages of these cooperative learning techniques is that they are relatively easy to implement. They can be used by a single teacher without requiring the cooperation of other teachers and administrators. Also, they can be used for only a portion of the school day or for only a short period of time over the semester. Finally, they do not require a major investment in learning new techniques or in setting up administrative procedures. Books and manuals which explain implementation procedures are available as are some curriculum materials already organized for use by student teams. Some consideration has been given to extending the team learning approach to encompass an entire school, with classrooms competing as units to achieve academically, improve attendance or discipline, etc. To our knowlege this has not yet been done. However, the idea seems promising.

There is also some reason to believe that less structured forms of academic cooperation are helpful in improving race relations. However, considerable care needs to be taken in designing such cooperative experiences so that they do not put low-achieving children at a disadvantage. Teachers who understand the basic theory of cooperative team learning are more likely to be effective in adapting particular programs to their classroom situation.

Evidence. The research evidence showing positive effects of various structured cooperative learning team strategies is strong, although the impact of some of these techniques such as Teams-Games-Tournament (TGT) and Student Teams-Achievement Division (STAD) have been more frequently studied than that of others. For recent reviews of research of cooperative learning techniques see Slavin (1980) and Sharan (1980). Some of the studies of cooperative academic teams have been conducted in classrooms with Hispanic children as well as Anglos and blacks. The conclusions drawn from this work are generally similar to those found in the more numerous studies of biracial classrooms. Perhaps because the evidence on this issue is so strong, the national experts interviewed as part of this project chose cooperative learning with great frequency as a specific means for minimizing discriminatory resegregation within schools.

The evidence relating to the impact of encouraging academic cooperation between majority and minority students without employing specific well-tested team techniques like those described above is less clear. Yet, it is strongly suggestive of a positive impact. The U.S. Commission on Civil Rights (1976) found support for this strategy as a means of reducing resegregation. Two recent large correlational studies also suggest a positive effect of academic cooperation on race relations. Slavin and

Madden (1979) found that assigning black and white students to work together on academic tasks was quite consistently related to positive outcomes on six different indications of students' interracial attitudes and behavior. Similar findings about positive benefits of team-organized schools is reported by Damico, Green and Bell-Nathaniel (1981). In addition, recent studies have suggested that cooperative intergroup contact in the classroom may improve at least some children's self-concept (System Development Corporation, 1980) and attitudes toward school, especially for blacks (Damico, Green & Bell-Nathaniel, 1981).

Several studies provide evidence that the multiple ability intervention helps to equalize status and participation in small mixed-ability groups of both single-race and multiracial composition (Stulac, 1975; Cohen, 1979; Rosenholtz, 1980). In addition, low-achieving minority students have been found to exhibit more active learning behavior in classrooms (Cohen, 1980; Ahmadjian-Baer, 1981). There is no evidence on the relationship of the behavioral changes to achievement outcomes in the multi-ability environment.

Although these studies suggest the positive impact of a variety of classroom procedures which encourage cooperative intergroup contact, there is research which suggests that several factors may influence just how effective such contact is in improving race relations. Specifically, some studies by Blanchard and his colleagues (1975) show that the positive impact of cooperation is greatest when the group succeeds. Also, other research suggests that whites are more attracted to blacks who perform competently in a group situation. These lines of research, combined with research by Cohen and her associates, indicate that careful attention should be paid to structuring cooperative learning so that situations are not created in which the participation and status of different groups are very unequal.

Illustrative Examples. The techniques for cooperative learning that are most widely discussed are:

Teams-Games-Tournament. Teams-Games-Tournament (TGT) is built around two major components: 4-5 member student teams, and instructional tournaments. The teams are the cooperative element of TGT. Students are assigned to teams according to a procedure that maximizes heterogeneity of ability levels, sex, and race. The primary function of the team is to prepare its members to do well in the tournament. Following an initial class presentation by the teachers, the teams are given worksheets covering academic material similar to that to be included in the tournament. Teammates study together and quiz each other to be sure that all team members are prepared.

After the team practice session, team members must demonstrate their learning in the tournament, which is usually held once a week. For the tournament, students are assigned to three person "tournament tables." The assignment is done so that competition at each table will be fair--the highest three students in past performances are assigned to Table 1, the next three to Table 2, and so on. At the tables, the students compete on simple academic games covering content that has been presented in class by the teacher and on the worksheets. Students at the tournament tables are competing as representatives of their teams, and the score each student earns at his or her tournament table is added into an overall team score. Because students are assigned to ability-homogeneous tournament tables, each student has an equal chance of contributing a maximum score to his or her team, as the first place scorer at every table brings the same number of points to his or her team. Following the tournament, the teacher prepares a newsletter which recognizes successful teams and first place scorers. While team assignments always remain the same, tournament table assignments are changed for every tournament according to a system that maintains equality of past performance at each table. For a complete description of Teams-Games-Tournament, see Slavin (1978).

Student Teams-Achievement Divisions. Student Teams-Achievement Divisions (STAD) uses the same 4-5 member heterogeneous teams used in TGT, but replaces the games and tournaments with simple, 15-minute quizzes, which students take after studying in their teams. The quiz scores are translated into team scores using a system called "achievement divisions." The quiz scores of the highest six students in past performance are compared, and the top scorer in this group (the achievement division) earns eight points for his or her team, the second scorer earns six points, etc. Then the quiz scores of the next highest six students in past performance are compared, and so on. In this way, student scores are compared only with those of an ability-homogeneous reference group instead of the entire class. A "bumping" procedure changes division assignments from week to week to maintain equality. Students know only their own division assignments; they do not interact in any way with the other members of their division. The achievement division feature maintains the equality of opportunity for contributions to the team score as in TGT. A complete description of STAD appears in Slavin (1978).

Jigsaw. In Jigsaw, students are assigned to small heterogeneous teams, as in TGT and STAD. Academic material is broken into as many sections as there are team members. For example, a biography might be broken into "early years," "schooling," "first accomplishments," etc. The students study their sections with members of other teams who have the same sections. Then they return to their teams and teach their sections to the other team members. Finally, all team members are quizzed on the entire unit. The quiz scores contribute to individual grades, not to a team score as in TGT and STAD. In this sense, the Jigsaw technique may be seen as high in task interdependence but low in reward interdependence, as individual performances do not contribute directly to a group goal. In the Jigsaw technique, individual performances contribute to others' individual goals only; since the group is not rewarded as a group, there is no formal group goal. However, because the positive behavior of each team member (learning the sections) helps the other group members to be rewarded (because they need each others' information), the essential dynamics of the cooperative reward structure are present.

Slavin (1978) constructed a modification of Jigsaw called Jigsaw II. In Jigsaw II, students all read the same material but focus on separate topics. The students from different teams who have the same topics meet to discuss their topics, and then return to teach them to their teammates. The team members then take a quiz, and the quiz scores are used to form team scores as in STAD. Thus, Jigsaw II involves less task interdependence and more reward interdependence than Jigsaw.

Small-Group Teaching. Small-Group Teaching is a general organizational plan for the classroom rather than a specific technique. It places considerable emphasis on group decision-making, including assignment of group members of tasks, and on individual contributions that make up a group product rather than a less well-defined group task. Cooperative rewards are not well-specified; students are simply asked to cooperate to achieve group goals (Slavin, 1980).

Multiple-Ability Classroom. Mixed-ability groups are assigned cooperative learning tasks which require a number of abilities and do not exclusively rely on reading, writing, and computation skills. In addition, students are prepared for the task by

> discussing the range of abilities it requires and are instructed that while no group member will possess all of the necessary skills, every member will be able to contribute at least one. The multiple ability assignments may be preceded by Expectation Training in which low-status students are prepared for special tasks which they then teach to other students (Cohen, 1980).

These various cooperative learning techniques are in place in hundreds of school systems throughout the county. The STAD procedure has been endorsed by the U.S. Department of Education as an "idea that works." Detailed information about this program, and help in adopting it, is available from the National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20203.

Peer Tutoring Can be a Strategy for Dealing with Achievement Diversity

The most common peer tutoring model is cross-age tutoring, in which older children teach younger children, both usually low-achieving students. Peer tutoring can be used, however, within age groups and for students of all levels of ability. The rationale is that the tutee will benefit from the additional individual help, and the tutor will also learn more through teaching and preparation for teaching. An additional rationale is that cross-age interracial tutoring can be used in integrated heterogeneous (e.g., multi-age, non-graded) classrooms, not only to accommodate diverse achievement levels but also to foster improved race relations (Gartner, Kohler & Riessman, 1971).

Evidence. Considerable evidence exists of cognitive and affective gains for older, low-achieving tutors. Evidence of comparable effects for tutees is more equivocal. Some studies show positive academic and attitudinal changes for both tutor and tutee, while others have found that the benfits for the former do not also accrue in same measure to the latter (Devin-Sheehan, Feldman & Allen, 1976).

While positive results have been found for both black and white same-race pairs, very few studies have examined mixed-race pairs. One that did so found that cross-race tutoring produced greater interracial interaction and acceptance for both tutor and tutee, although there were no significant gains in achievement (Devin-Sheehan, et al., 1976).

Eliminate the Grouping of Students in Separate Classes by Ability in Elementary School

Students are separated by ability level for some or all of their instruction in most American schools. In elementary schools, one practice is to assign students to classrooms at a particular grade level based upon ability. Ability is usually measured by standardized tests, grades, and teacher reports. This practice should be eliminated in schools that seek to desegregate effectively. Another form of "academic segregation" is the division of children within a class into recognizable ability groups. The practice can, if the groups are more or less permanent and are continued across subjects, be as dysfunctional as ability grouping by classroom. Indeed they may be more damaging because they reinforce stereotypes and student self-devaluation. However, grouping for instruction in particular subjects for portions of the school day should not necessarily be eliminated.

Evidence. The evidence is clear that these assignment practices tend to segregate students by race (Findley & Bryan, 1971; Mills & Bryan, 1976). The reason is that ability measures, such as standardized tests, sort students by socioeconomic status and race. Teacher reports and grades are also biased by assumptions related to race and socioeconomic status. The evidence is also clear that this assignment pattern does not improve achievement for low ability or high ability groups (Findley &

Bryan, 1971; Epstein, 1980; and others). This generalization seems to apply even to very low achieving students, assuming that students experience good teaching. One major study, for example, found that in three out of four schools studied, students in need of compensatory education who were "mainstreamed," did better than those in special classes and in the fourth there was no difference between the groups (National Institute of Education, 1978). Further, the achievement and self-esteem of low-ability students generally seem to be harmed by grouping. Race relations cannot be improved when students are separated in segregated classrooms or groups for instruction. The evidence is also clear that teachers prefer classes with a limited range of ability if they are assigned to groups of students with high or average ability but not if they are assigned to classes with low ability (Findley & Bryan, 1971). It is the popularity of ability grouping with teachers that has guaranteed its continuation and not its obvious instructional value. Despite Gabe Kaplan's flair with the sweathogs in Welcome Back Kotter, there is little evidence that teachers with the greatest experience and teaching ability are assigned to low-ability classes.

Empirical research reported by Epstein (1980) shows that eliminating tracking in the elementary schools will have little effect on achievement scores but that flexible grouping (allowing for status change) and other organizational structures (active-learning and equal status programs) have positive effects on black students' achievement.

Examine Carefully Any Within-Classroom Ability Groups That Do Not Change

More than three-fourths of elementary school teachers group children for reading and mathematics. Often children grouped on the basis of one skill (usually reading), are kept in these groups for other subjects and classroom activities and this may be quite inappropriate. Schools should examine such grouping practices carefully to determine whether they are flexible. Is it possible for children to move up? Do they, in fact, improve and move up to higher ability-level groups?

Evidence. Within-class grouping for reading and math based upon standardized measures of ability or based upon experiences a child first brings to kindergarten or first grade usually segregates students by race within groups in the classroom. Within-class grouping by ability for reading and math is not clearly superior to other methods of organizing a classroom, though this depends on the extent of heterogeneity. Epstein (1980) found that black students did better in less resegregative programs; they benefitted from participation in equal status learning programs and from flexible grouping.

Teachers prefer ability grouping because it limits the range of student experience and knowledge (which they call ability) with which they must contend at any one time. The need to continually re-examine the rigidity of grouping procedures is underscored by the finding that teachers who express low support for integration are more likely to use homogeneous grouping strategies than those who support it (Epstein, 1980; Gerard & Miller, 1975). The evidence on impact of within-class grouping on race relations is inconclusive. Schofield (1981) suggests that this is due to the variety of ways in which in-class groups may be used. In general, however, race relations are improved by interracial contact and seldom improve in the absence of such contact (McConahay, 1981).

The dangers of such within-class grouping are that decisions made about a child's ability are made very early in the school career (grades K or 1) and are simply honored by each succeeding teacher providing little chance for change. If those decisions are unexamined by teachers, principals, parents or children, they become self-fulfilling prophecies. This possibility is strengthened by the observation that students who have been classified as less able may receive less instructional time, attention and material than more able students (Rist, 1970; Oakes, 1980; Green & Griffore, 1978).

Eliminate Rigid and Inflexible Tracking and Grouping in Secondary Schools

Two types of grouping occur at the high school level. One is a form of ability grouping, sometimes called leveling, in which courses such as English and mathematics have different levels of difficulty. The other arrangement, usually called tracking, refers to a differentiated curriculum. There are usually three tracks: college preparatory, vocational, and general. Leveling should be limited, flexible, and determined for each subject separately. Students and parents should be allowed to choose the level of work for the student after recommendations from school personnel. Tracking should be flexible, with students allowed to choose from both college preparatory and vocational courses. Students should not have to declare for the college preparatory or vocational track so that they have separate criteria to meet for graduation depending upon track membership, and that might exclude them from post-high school options.

Evidence. The evidence is clear that leveling and tracking tend to segregate by race with black, Hispanic and foreign-born students overrepresented in lower levels and in vocational and general tracks (Harnischfeger & Wiley, 1980). Larkins and Oldham (1976) indicate that leveling and tracking not only resegregate students while they are in their leveled or tracked classes, but that they affect students' schedules for all other classes. This leads to resegregation in classes not consciously tracked. Local interviews confirm the existence of this problem. The experts interviewed suggested that schools eliminate grouping by ability and allow students to choose freely among vocational or college preparatory courses without having to declare themselves in a particular track. Grouping, although not necessary to good instruction, is, however, extremely popular. Its abolition may be impossible to achieve in the near term.

The empirical evidence of the impact of tracking and leveling on race relations is quite mixed, but generally it suggests that the impact is negative. Crain, Mahard and Narot (1981) find that ability grouping in newly desegregated southern junior and senior high schools (meaning sorting English and other basic classes by ability while leaving electives, gym, and other courses heterogeneously grouped) tends to have harmful effects on achievement but beneficial effects on race relations, and that ability grouping in elementary school has harmful effects on both.

The evidence on the impact of grouping or leveling on achievement at the secondary level is the same as that at the elementary level—negative impact on low-ability groups (which have high concentrations of minority children in desegregated districts) and no consistently positive impact on high ability groups (Froman, 1981). The results of studies are extremely mixed and seem much more likely to be related to teacher behavior, student-teacher interaction and the structure of the instructional process within groups rather than the grouping itself. There is a limit to the diversity that classroom teachers can handle. Without expertise in classroom management and knowledge of instructional strategies most appropriate for heterogeneous classes, extreme student diversity will defeat most teachers and the learning needs of students will not be met (Evertson, Sanford & Emmer, 1981). A recent analysis of leveling by Oakes (1980) indicates less time is spent on instruction in low levels and teachers have lower expectations for homework. "Teacher clarity" and "teacher enthusiasm" were found in greater proportions in high-level rather than low-level classes. Although it is widely believed that leveling and tracking keep middle class whites in desegregated schools, there is no evidence to support this contention. In fact, almost all school systems use the practice, including those with high levels of white flight.

National experts were nearly unanimous in rejecting ability grouping or urging extremely restricted use of ability grouping at all levels of instruction. Similarly, the consensus literature generally attributes detrimental effects to ability grouping and tracking.

School Officials, Staff and Teachers Receive Training in and Develop Explicit Policies and Procedures for Identifying and Placing Students in Special Curriculum in Non-Discriminatory Ways

This strategy calls for school officials, staff and teachers to be trained in assessment procedures that will reduce the disproportionate assignment of minority students to special curriculum (EMR for example) and further, that school systems develop explicit policies governing such placements. For example, students with limited English proficiency should not be tested in English. Moreover, schools should seek linguistically and culturally relevant information and advice in order to reach informed decisions regarding special education placement of national origin minority students.

Evidence. Systematic research on the effects of alternative assessment procedures on the classification of minority students is virtually nonexistent. An application of Mercer's technique (1973) did produce a reduction in the identification of Hispanic children in California as retarded. The use of learning potential assessment has led Budoff (1972) to conclude that a large number of IQ-defined retardates do have learning ability and are not mentally retarded but educationally retarded. Hargrove and his colleagues (1981) found that schools in which the referral process was more consultative referred fewer students for testing, but there was no systematic effect on race of referrals. Studies of the implementation of P.L. 94-142 (Stearns, Green & David, 1980) and similar state legislation (Weatherly, 1979) indicate that the interdisciplinary procedures dictated by the law are widely used, but the relationship of these practices to placement decisions is not known. There is evidence, however, of strong bureaucratic constraints on the deliberations of interdisciplinary teams; they frequently reach professional consensus before parents are involved and consider only a narrow range of service options (Weatherly, 1979).

There is clear evidence that testing of bilingual children in their primary language has a positive effect on their performance. When the plaintiffs in the *Diana* case (*Diana* v. *State Board of Education*, 1970)--nine children classified as EMR--were retested in Spanish, only two of them scored below the IQ cutoff for EMR, and the lowest score was only 3 points below the cutoff.

Mackler (1974) calls for an assessment team approach (inter-disciplinary model) to prevent the segregation of minority students. Both local and national experts emphasized the importance of this strategy. The U.S. Commission on Civil Rights (1976) report is also a source of support for this strategy.

Illustrative examples. A variety of alternative assessment procedures have been developed that are intended to reduce reliance on standardized intelligence tests. These include, but are not limited to, the following:

1) Criterion-referenced assessment describes a child's test performance in terms of level of mastery of specific skills, rather than in comparison with a normative distribution. It is a method of test interpretation rather than a type of test; no normative or peer-referenced implications are drawn. Examples of criterion-referenced assessment include "mastery testing" (Mayo, 1979) and "domain-referenced testing" (Nitko & Hsu, 1974).

2) Learning potential assessment uses a test-teach-retest paradigm in order to assess the child's actual learning ability and strategy. The Learning Potential Assessment Device (Feuerstein, 1979, p. 17) is accompanied by Instrumental Enrichment, educational techniques designed to "enhance development in the very area of cognitive deficiency that have been identified by the LPAD" (Haywood, 1977, p. 17).

3) Interdisciplinary assessment combines the perspectives of a variety of professionals who have worked with the child, including the child's classroom teacher. Under P.L. 94-142, the parents are also included, as well as the child when appropriate. The rationale is that multiple sources of information about the child's behavior in a variety of settings will reduce reliance on test scores in making placement decisions and thereby reduce minority disproportion (Mackler, 1974).

4) The consultation model prescribed by Johnson (1976) is not a method of psychologial assessment but rather a process by which the necessity of testing is determined. The school psychologist consults with the referring teacher and other school personnel to devise ways of working with the child in the regular classroom, and continues with testing only if these strategies are not effective. The rationale is that in many cases a teacher's referral may be a request for help and should not automatically be interpreted as a step toward special education placement.

5) The System of Multicultural Pluralistic Assessment (SOMPA) integrates several approaches to non-discriminatory assessment in an attempt to control for different sources of bias. The SOMPA, developed by Mercer and Lewis (1978), adopts pluralistic norms for standardization, includes an ecological assessment of adaptive behavior, and uses the interdisciplinary process with emphasis on parent involvement. Although its psychometric basis remains controversial, the SOMPA represents the best organized model of non-discriminatory assessment available at this time (Cook, 1979).

Comments. P.L. 94-142 (federal legislation) demands that "testing and evaluation materials and procedures used for the purposes of evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory" (112a. 530-b). U.S. District Court Judge Peckham (San Francisco, 1972) ruled in Larry P. v. Riles that "Individual intelligence tests could not be used in the decision making process to place black children in EMR classes."

Establish Clear and Consistent Expectations for Student Behavior in Each School

During the initial year of desegregation, some students are in new buildings with different expectations for behavior. When expectations are ambiguous and when they are applied inconsistently, students are confused and sometimes angered. The increase in minority suspensions following desegregation may occur in part because minority students are more often moved into previously white schools than white students are moved into previously all minority schools. Minority students are thus required to adapt or to assimilate into a different set of rules or a different culture.

Special attention to cooperative, open development of a set of behavior expectations at each school building during the initial period of desegregation may reduce disproportionate minority suspensions. This does not mean that writing a new code of conduct in which the rules are uniform in all schools is sufficient. The key point here is that minority and majority parents, and students together with teachers under the leadership of the principal, must come to some common agreement about the way everyone is expected to behave in the school. That agreement about expectations must be communicated to everyone in the school, including teachers. If the approach taken is one of understanding differences in acceptable behavior rather than one of total assimilation of minority children into the majority expectations, then minority suspensions are likely to be reduced.

Evidence. The qualitative literature supports this as an important way of reducing misbehavior for all students during desegregation. National experts support this position and emphasize early notification of parents when infractions occur. Gottfredson and Daiger's (1979) analysis of data from 600 schools provide strong support for this approach. Specifically, this study finds that order will increase if schools:

1. Develop schools of smaller size, where teachers have extensive responsibility for and contact with a limited number of students in several aspects of their education, and where steps are taken to ensure adequate resources for instruction.
2. Administer schools in ways that are clear, explicit and firm.
3. Promote cooperation between teachers and administrators especially with respect to school policies and sanctions for disruptive behavior.
4. Develop school rules that are fair, clear, and well publicized and apply the rules in ways that are firm, consistent, persistent and even-handed.

Research by Emmer, Everston and Anderson (1979) emphasizes the importance of establishing and enforcing classroom and school norms early in the school year.

Analyze Carefully the Reasons for Disproportionate Minority Suspensions

Students are suspended from school for a wide variety of reasons. Minority students are almost always suspended in disproportionate numbers in relation to their percentage in the school or district. Minority suspensions frequently increase immediately after implementation of a desegregation order particularly in previously all white schools. This suggests that their use may be an attempt to limit the impact of desegregation and resegregation.

While some infractions are objectively measured, such as truancy, possession of drugs or weapons and the like, many, such as disrespectful behavior, insubordination and dress violations require personal judgments by school officials. Most of the questions raised about unfair disciplinary actions are raised with respect to sanctions for these ill-defined offenses.

Schools should keep records on suspension including the reason for the suspension, the teacher or staff person involved, and the race and sex of the student involved. This allows the school principal, parents and others to analyze the reasons for suspension by race and sex, and to determine if particular teachers or staff people have problems needing attention. Until the leadership in a school understands the causes of disproportionate minority suspension in that school at that time, solutions are impossible.

Not very many districts and schools conduct such analysis on their own without outside pressure. It is viewed as threatening, but it is essential to understanding disproportionate minority suspension and identifying solutions for the problem.

Evidence. The reported associations of lack of support for desegregation with perceptions of increased discipline problems (Peretti, 1976) and reports by school officials we interviewed that communication problems contribute to increased discipline problems, underscore the importance of monitoring subsequent to desegregation. In some cases, where detailed records have been kept, minority students have been found to be suspended more often for "subjective" offenses and for less serious offenses than their majority peers (Foster, 1977; Study Group on Racial Isolation in the Public Schools, 1978). Columbus, Ohio, at the order of the court, has undertaken careful analysis of suspension and other data. The Columbus plan has been operating for two years. Second year data show slightly more suspensions, but the racial disproportion has been reduced from year one. Cleveland analyzed suspensions by reason and race (Kaeser, 1979a), but did not use the data in rewriting their code.

Limit the Number of Offenses for Which Suspension and Expulsion Can Be Used

Suspensions are used extensively in American schools, generally for behavior that is not considered dangerous to persons or property. As many as half of all suspensions are for violations of attendance policy. The widely varying suspension rates among schools, sometimes schools with similar student bodies in the same city, suggest considerable discretion exercised in the choice of this technique for dealing with student infractions.

Student advocates such as the Childrens' Defense Fund (CDF), the South Eastern Public Education Project (SEPEP), and professional associations such as the National Education Association (NEA), the National Association of Secondary School Principals (NASSP), and the American Association of School Administrators (AASA), all agree that the overall numbers of suspensions ought to be reduced. All of these organizations have recommendations for the proper way to do this.

One easy place to begin is to prune suspendable offenses from a district's discipline code. Most districts have a laundry list of 15-25 offenses. Eliminating suspension for truancy, tardiness and other absence-related offenses is a first step. A second category of offenses for which suspension should be limited are vague ones such as "failure to comply with authority." Spell it out or throw it out.

Illustrative examples. Sample codes are available from the following organizations:

Children's Defense Fund
New Hampshire Avenue, N.W.
Washington, D.C. 20036

Harvard Center for Law
and Education
6 Appian Way, 3rd Floor
Cambridge, MA 02138

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Create Alternative In-School Programs in Lieu of Suspensions

When suspensions are disproportionately minority, they have the effect of resegregating students outside of schools and where minority students make up a relatively small proportion of a school, suspensions may also resegregate schools. If in-school suspension removes substantial numbers of minority students from regular classes to in-school discipline programs, these alternatives may themselves contribute to resegregation. Regardless of its effect on resegregation, however, suspensions are to be avoided whenever possible. The absence of alternatives to suspension may make teachers and administrators reluctant to suspend disruptive students.

Both disruption and disproportionate suspensions defeat the purposes of desegregation and result in a loss of public and parent support for the school system.

Effective in-school programs in lieu of suspensions in desegregated schools have five important characteristics:

a. They identify the individual problem that led to the misbehavior;
b. They provide assistance, support, encouragement or active intervention for solving the problem (this includes help for teachers and students--sometimes teachers have problems dealing with particular kinds of student behavior);
c. They actively work at helping the student keep up with academic work or help him or her to catch up if they are behind;
d. They reduce dramatically or eliminate totally the number of out-of-school suspensions; and
e. They do not resegregate students within the school.

There are several types of alternative programs. Not all of them always meet the five characteristics of an effective program, but they can if implemented properly. They are called student referral centers, time-out rooms, in-school suspensions (ISS), pupil problem teams, counseling and guidance programs, Saturday and evening schools, and other names. Just establishing one of these programs will not guarantee a reduction in disproportionate minority suspensions since the causes of the disproportion in the particular school must be understood and addressed by one or more of these programs.

Evidence. Use of alternatives to suspensions is a growing phenomenon but evaluation data tend not to be very complete or to address fully the impact on resegregation of students. Many programs point to reduced use of out-of-school suspension as a result of implementing an alternative (National Institute of Education, 1979, pp. 80, 100; Bader, 1978). There is also evidence of low recidivism in some programs; NIE (1979) describes a counseling program in which fewer than 12% of participants have been subsequently suspended, and an ISS center in which 93% had neither been suspended nor returned to ISS (pp. 98, 100). Even without a reduction in racial disparity, a reduction in numbers of students suspended should reduce resegregation.

Indications of reduced minority disproportion in suspension rates are few, even though this issue has been a major factor in recognition of "the suspension problem" that led to the establishment of many alternative programs (Garibaldi, 1979). The Dallas schools report a black suspension rate of close to 40%, the proportion of black enrollment, after the institution of ISS programs under a court order (Cotton, 1978). In Jefferson Parish, Louisiana, four out of five middle schools in which an "intervention room" was established reduced their minority suspensions by 28% while in the unserved schools, minority suspensions increased by 29% (National Institute of Education, 1979, p. 84). The PASS (Positive Alternatives to Suspensions) program in Pinellas County, Florida reduced suspensions or held them constant while an increase was observed in control group schools; after the program was introduced in all Pinellas County high schools, the number of suspensions was cut by more than half.

ISS program administrators and observers continue to express concern about the degree of racial isolation and disproportion in the alternative programs themselves. Arnez (1978, pp. 33-34) cites the Louisville system as an example in which referrals to a separate school program were overwhelmingly black while those to an in-school program were mostly white. Arnove and Strout (1980) observed similar situations in other large cities. Participants in the NIE conference observed that ISS centers could become just as disproportionately minority in composition as were out-of-school suspensions. These programs can become identified as "minority programs," especially when they involve a voluntary transfer to an alternative school (Williams, in NIE, p. 18).

Illustrative examples. The Positive Alternatives to Suspension (PASS) program in Pinellas County, Florida, is widely publicized. It includes regular classroom instruction in human relations, basic encounter groups for students and staff, parent training, and school and home "survival courses" for students with behavior problems (Bailey, 1978). Other effective programs are described in Creative Discipline, a periodical published by SEPEP, and by First and Mizell (1980). (See also Foster's Hillsborough County Study, 1977; NIE In-school Alternatives to suspension report, April 1979; Kaeser, 1979b)

Desegregated Secondary Schools Should Ensure Desegregated Student Governments

It is important that the formal leaders of the school be representative of the racial and ethnic groups of the school. Student government can play an important role in establishing a favorable racial climate in the school. However, in newly desegregated schools, elections may become racial referenda with bloc voting that prevents members of the school's smaller racial or ethnic group from obtaining seats in the government. The principal should act in this situation to make it clear to the student body that a one-race student government is unacceptable.

Principals have used a variety of techniques to ensure that student government is desegregated. Some have replaced the conventional student council with a multiethnic student committee with a fixed number of seats for each group. Others have required elections to be among slates of candidates, each slate representative of the school's racial mix. Some principals have simply announced that they will not approve any elections which do not result in a multiethnic group of officers. Any of these techniques could work. (We do not recommend proportional representation systems of voting, which encourage minority voting for one's own group and generally result in confusion.)

Election of multiracial student governments is a necessary first step, but by itself it is not a panacea. In particular, the election of a minority class president in a majority-white school is not evidence that any of the school's racial problems are solved.

Evidence. The studies by Crain, Mahard, and Narot (1981) and by Forehand and Ragosta (1976) present evidence that integration of the student elite is a valuable desegregation technique. Case studies reported in Rist (1979) support this idea.

Illustrative example. In Charlotte-Mecklenburg, administrators established a 6-3 representation of white and black students for student government councils. The school board rejected the administration's plan but the students themselves subsequently adopted the same plan. Student race relations in that system have been widely reported as exemplary.

Desegregated Secondary Schools Should Have a Student Human Relations Committee

Many southern communities created biracial citizen committees to deal with local racial issues. While they were advisory bodies with no formal power, they nevertheless often were able to intervene in racial issues and resolve them before they reached flash point temperature.

Many high schools in the South have done the same thing with a student committee, called a bi/multi-racial committee or a human relations committee. These groups receive information and complaints from other students, and transmit to the administration information about problems and recommendations for their solution. They also organize human relations activities, organize special projects, and provide rumor control. In many cases, they are given credit for preventing a racial confrontation; and when a crisis does occur, there are a ready-made source of trained student leadership to help mediate it.

Bi-racial committees, multi-racial committees in school systems with significant numbers of NOM students, and human relations committees are sometimes elected, sometimes appointed by the student government, and sometimes appointed by the principal. In some cases the officers elected and the other committee members are volunteers.

Evidence. Forehand and Ragosta (1976) conclude that student human relations committees contribute to the effectiveness of desegregated high schools. Crain, Mahard and Narot (1981) present evidence in support of this proposition.

Desegregated Schools Should Maximize Opportunities for Student Participation in Integrated Extracurricular Activities

It is well known that good race relations can best be brought about by personal contact between white and minority students in an atmosphere of cooperation toward a common goal. This means that for a desegregated junior high school and secondary school, the extracurricular activities program may be a central mechanism for creating true integration. Not only will a strong extracurricular activities program strengthen school race relations, but the improved student morale could spill over into improvements in achievement as well.

Schools must do two things: they must offer enough different kinds of extracurricular activities to involve virtually every student, and they must work to ensure that all these activities are integrated. To do this, schools must assign staff time to extracurricular activities and must plan their program carefully to minimize organizations which will appeal to only one group, or organizations which elect their own membership on diffuse grounds (such as overall "popularity") which will often be racially biased. The principal must monitor the extracurricular program carefully. In a desegregated school, there must be adequate transportation to allow students to remain after school. This may be expensive, but the potential benefits seem substantial. Alternately, some schools have scheduled a time period during the school day for extracurricular activities. Since few teachers have special training in the management of extracurricular programs, inservice training is important.

The capacity for some types of extracurricular activities needs to be established by the school system early. For example, schools without string programs in early grades are not likely to have desegregated orchestras.

Extracurricular programs that most need strengthening are:

1. Female athletics programs. There is reason to believe that minority girls have a particularly difficult time being integrated within desegregated schools.
2. Programs for junior high school students
3. Intramural athletics in larger schools
4. Interest-clubs: (electronics, automotive, foreign language, clothing, computers, bowling)
5. Service organizations (volunteer groups for in-school or out-of-school programs). These must be controlled to prevent them from becoming "prestige" clubs.

6. Human relations groups.

These can be made more effective if a socially and ethnically representative group of the school's participants are involved in planning, developing and supporting extracurricular activities. Doing so may reduce the occurrence of one-race activities.

A strong extracurricular activities program will also work to build community support for desegregated schools. It involves the parents in the school through assistance in activities and attending games and concerts, it is a good source of media attention, and it provides opportunities for students to make contact with adults (through, for example, raising money). However, extracurricular activities often become resegregated unless efforts are made to prevent this from happening.

Evidence. There is also some empirical evidence that minorities are underrepresented in extracurricular activities. Theory and research suggest that participation in extracurricular activities, especially in those activities requiring cooperation (such as athletic teams or music groups), can have a strong positive impact on intergroup relations. The theoretical work is derived from researchers such as Allport (1954) and Sherif (1958) who argue that cooperation can lead to improved intergroup relations. The empirical work is exemplified by Slavin and Madden's (1979) study showing that participation in interracial athletic teams is associated with positive intergroup relations. Crain, Mahard and Narot (1981) show a number of positive benefits associated with high levels of extracurricular participation, and find that achievement is higher in schools with strong programs.

Two sources in the qualitative literature support this strategy (Southern Regional Council, 1973, 1979), as a way to foster more effective desegregation. The consensus literature is nearly unanimous in its support for this strategy (Smith, Downs & Lachman, 1979; Forehand & Ragosta, 1976; Murphy, 1980). The experts we interviewed provide considerable support for this strategy but do not link it directly or solely to the reduction of resegregation.

On the issue of how to develop extracurricular programs, 86% of our interviewees report some form of post-implementation community involvement ranging from in-school committees to district-wide committees. Forty-three percent reported these committee efforts were effective in producing student acceptance of desegregation from which we may infer that resegregation was reduced.

Illustrative examples. Shaker Heights, Ohio will not fund or otherwise support extracurricular activities that are not racially integrated. Some schools have converted the homeroom period into a social group activity. One school grouped entering ninth graders together with a teacher i to a homeroom period and left the group and teacher together for the four years of high school. Each homeroom was ethnically balanced and conducted various social activities over the four years. There was considerable resistance to this program from some teachers who felt unskilled in groupwork.

Some school systems have emphasized the importance of extracurricular activities by taking them as an indication of the success of their overall efforts. For example, in Stockton, student participation is used as a measure of evaluation of integrative results of desegregation (Carter, 1979).

Establishing Multiethnic In-School Parent and Teacher Committees to Provide Counseling and to Handle Grievances of Parents, Teachers and Students

Following school desegregation, some school systems have instituted in-school committees that provide advice and guidance to parents, teachers and students and serve as mediators to resolve grievances. These contribute to effective desegregation if the parents are committed to desegregation, know what to do to make it effective, and if the committees remain multiethnic. Such groups can reduce resegregation by providing an interpretation of experiences and behaviors encountered by parents, teachers and students in order to prevent responses that result in student withdrawals from classes or activities, by choice or decree. The success of such committees is heavily dependent on the support they receive from school administrators in the form of commitment and responsiveness.

Evidence. No empirical research explicitly examines this strategy. Qualitative discussions of this strategy are alluded to by authors calling for greater parent (especially minority parent) involvement in the schools. The reasoning is that such involvement increases community and parent ownership and concern for the school which may no longer be a "neighborhood school" and that parents provide examples for their children.

Local interviews and interviews with national experts reinforced the need for these grievance committees: several local experts specifically noted the positive consequences of community involvement in grievance-dispute settlement at the school level.

While the strategy has met with some success, it must be pointed out that obtaining and sustaining the participation of low-income and minority parents is often difficult since often they must travel greater distances and usually will have employment obligations that make participation difficult. Unless special arrangements are made to overcome such obstacles, in-school parent committees can, and often do, become all-white over time.

Almost all of the local respondents indicated that the success of in-school parent committees depended upon school principals encouraging and supporting the active involvement of parents. Local experts agreed that such committees should be advisory as did the national experts.

Illustrative examples. The U.S. Commission on Civil Rights (1976) reports that this strategy was helpful in reducing resegregation by calming parental fears and by helping to clarify teacher and student relations. Specifically mentioned were Denver's P.L.U.S. (People Let's Unite for Schools) effort and the C.E.C.s (Community Education Councils).

Where these in-school committees have remained multiethnic in structure and have treated substantive issues, parents are reported to have gained a "sense of ownership" for their schools as reported in Evanston, Illinois; Wilmington, Delaware; and Charlotte-Mecklenburg, North Carolina.

In Charlotte, beginning with and following implementation, the superintendent, other city and school officials and parents manned an information control center that was instrumental in receiving and treating parental and student concerns. This effort continued to operate for two years at night.

Strategies for Inservice Training

School desegregation presents most educators with new experiences which challenge their professional capabilities and their personal values and dispositions. Almost all desegregation plans or programs provide for some type of inservice training. In addition, most experts agree that inservice training is necessary to prepare educators for changes in schools that result from desegregation.

Genova and Walberg (1980) assert, for example, that teachers typically require inservice training to effectively implement specific activities of desegregation plans. Felkner, Goering and Linden (1971) argue that balanced, well-structured training programs provide teachers with knowledge, insights, and skills to cope with change. Such programs are thought to combat rigidity in teachers' attitudes and instructional practices by providing ways for teachers to develop flexibility in dealing with new instructional demands and challenges in interpersonal relations. W. H. Banks, Jr. (1977) claims that many of the problems experienced during the desegregation of the Jefferson County, Kentucky schools might have been avoided if teachers and administrators had received more extensive and better planned inservice training to deal with both anticipated and unanticipated change. J. A. Banks (1976) stresses the need for inservice training to prepare educators to work successfully in ethnically pluralistic situations.

Despite such agreement and exhortation, educators frequently express skepticism about the usefulness of inservice training for desegregation. Indeed, such doubt regarding the effectiveness of widespread and often uncritically planned and implemented inservice programs may be well founded. While most desegregation experts place emphasis on the importance of inservice programs, remarkably little literature exists that makes a convincing case for the effectiveness of particular training strategies. The greatest portion of the literature on desegregationspecific training is qualitative and descriptive. Empirical studies are in short supply.

The usefulness of inservice training in any school setting depends on at least four factors: 1) the manner in which training is conducted, 2) the content of training, 3) what groups participate in the training programs, and 4) who conducts such training. The purpose of this section is to review what the available evidence suggests about effective strategies for inservice education in desegregated schools with respect to each of these four factors.

The evidence on desegregation-specific training is problematical for a number of reasons. No consensus exists on what criteria constitute effective or successful inservice training activities. Some studies determine program effectiveness in terms of changes in participants' attitudes and behavior; others emphasize effectiveness in terms of changes in student attitudes, behavior, or achievement. Most research on training for desegregation stresses effects on the attitudes and behavior of teachers, usually measured in terms of perceptions of the trainees, their supervisors, or other observers rather than in terms of more systematic and objective modes of assessment. For example, Carney's (1979b, 1979c, 1979d) studies, which are among the best in this field, evaluate training programs in 16 school districts throughout the nation in terms of observed changes in teacher and administrator behavior, subjective determinations of program effectiveness based on perceptions of participants, or in some instances, *speculation* about the relationship between inservice training and student outcomes. In addition, little research examines the impact of inservice training with respect to actual classroom or administrative practice over an extended period of time. This problem is particularly important; because little longitudinal evidence exists, our knowledge of whether the effects of training carry over to classroom practice is seriously curtailed.

There is some limited evidence that assesses the effects of desegregation-specific programs in terms of perceived relationships between training and increases in levels of student achievement and student-teacher interaction or decreases in levels of student-teacher or student-student conflict. A reasonable argument can be made that if inservice training for desegregation influences changes in participants' attitudes, behavior, and instructional skills, those developments will result in changes in school environments that serve to improve student attitudes, behavior, and achievement. However, taken together, studies of inservice programs for desegregation present insufficient evidence to support propositions of direct or indirect causality between desegregationspecific training and student outcomes.

This discussion relies heavily on two recent studies of inservice training in desegregated schools by King, Carney and Stasz (1980) and Carney (1979b, 1979c, 1979d). Other evidence is drawn upon where applicable. For instance, evidence presented by Bailey (1978), Beckum and Dasho (1980, 1981a, 1981b), Williams (1980), the Institute for Teacher Leadership (1979), and the System Development Corporation (1980) supports one or more of the propositions about inservice training for desegregation outlined below. Also, this assessment utilizes evidence from interviews of local and national experts. In general, however, data on the effectiveness of inservice training for desegregation are fragmentary, and, although some consensus emerges regarding overall approaches to effective training, discussions and evaluation of specific desegregation-related strategies are varied and not documented in many cases. (See Carney, 1979a, as an example of a synthesis of the varied literature on desegregation-specific training.)

In the research, as in practice, distinction is often made between desegregation-specific inservice training and general inservice training. In many respects, these two types of training are very similar. The problems teachers and administrators confront in desegregated settings are usually variations of the problems and opportunities educators face prior to desegregation. At the bottom line, the goals of desegregation-specific and general inservice training are the same--enhancing student achievement, improving interpersonal relations among students and educators, developing classroom management and discipline techniques, and stimulating curricular innovation.

If problems in desegregated settings are variations of problems encountered by educators in non-desegregated contexts, we may gain useful information about the effectiveness of different approaches to desegregation-specific training from research on general training programs. We might hypothesize, for example, that if certain approaches to interpersonal relations training in non-desegregated settings are found to improve student-teacher interactions, similar approaches might be effective in desegregated settings if they are adjusted for differences in educational context. On this basis, evidence from studies that examine the impact of inservice training in general is discussed when appropriate. Many of these studies shed light on relationships between training and both teacher and student outcomes that are alluded to, but not demonstrated, by most of the studies on desegregation-specific training.

The strategies discussed below focus on the relationship of inservice training to improving teacher and administrator attitudes and behavior in desegregated settings and how this relationship influences student outcomes. Where data from studies of general inservice training programs are noted, it is done so with great caution because of hypothetical generalizability. Research on general inservice training is fraught with similar problems of validity as research on desegregation-specific programs. (See Hyman, 1979, for a discussion of problems inherent in assessing research on general inservice training.) We present them to illustrate more general relationships between training and educator and student outcomes than are revealed in studies of training for desegregation. This section does not give much attention to the content of the curricula or the nature of the instructional techniques inservice training aims to provide to educators. Descriptions of those strategies are found, at least in outline form, in the sections of this volume that deal with strategies to improve student achievement, promote better human relations among students, avoid resegregation within schools, and so forth. This section is concerned primarily with strategies that promote useful and effective inservice training.

The first strategies discussed in this section outline general approaches to inservice training for desegregation that appear to be most effective. The remaining strategies deal with various types of desegregation-specific training and with the need for training that includes administrators.

Conducting Inservice Training for Desegregation

The design of an inservice training program involves two types of decisions: What topics or content should be addressed? How should training be conducted? Most discussions focus on the first of these questions. However, unless inservice training is developed in ways that promote learning and behavioral change, efforts spent designing the content of programs have little consequence. Observers generally agree that the strategies used in inservice training lack the sophistication of instructional strategies that educators themselves employ to facilitate learning in the classroom.

There are few studies that empirically examine the impact or effectiveness of particular types of inservice training on teacher and administrator attitudes and behavior or how inservice training affects student achievement and race relations. Despite the lack of comprehensive data, some agreement exists that certain general strategies of inservice education will be effective in enhancing the knowledge and capabilities of educators with respect to instructional techniques, curricula, interpersonal relations, and discipline. Each should be considered in planning and implementing inservice training programs for teachers, administrators, and other target groups.

1. Faculty members, administrators, and non-professional staff should understand the desegregation order, the desegregation plan, and the implications of the plan's implementation to the district, individual schools, and inservice participants.

2. Topics of inservice training programs should be germane to individual participants, their needs and day-to-day problems. Program development should be predicated on a needs assessment conducted by school staff.

3. Programs that aim for long-range changes need follow-up components which focus on individual problems of participants applying training in the classroom. Classroom implementation of training should be monitored and follow-up sessions should be planned to assist participants.

4. The specific content of inservice training should be oriented toward school-level and not district-wide concerns. Small group formats are better than larger multi-school formats because they allow for identification of and concentration on problems of individual participants in single school settings.

5. Training should be practical with "hands-on" experience and product-oriented outcomes for immediate application. There is consensus that abstract, theoretically oriented training programs offer little immediate assistance to teachers and administrators and, as a result, participants tend to view such programs as providing slight, if any, benefit.

6. Participants should be included in the planning and design of inservice training programs.

7. If trainers are brought in from outside the school system, they need knowledge of district and single school matters. Teachers and principals often respond better to peers from their own and other schools than they do to professional consultants.

8. Whenever possible, faculty and staff of host schools should be involved in the conduct of inservice training.

9. All members of groups targeted for training should participate. Ideally, training should be perceived by educators as important enough to warrant full participation. Realistically, incentives should be provided for total participation in inservice training. Financial rewards, course

credit, or certificate-renewal credit might be offered. If strategies for voluntary participation fail, training should be mandatory.

10. Inservice training should be incorporated as a component of total school or district functions. Desegregation-related training should be tied to central concerns of educators such an enhancing achievement and classroom management.

11. Training programs should be continuous. Simply providing workshops before schools open or infrequent training sessions is not likely to have much effect.

12. Little attempt should be made to directly change attitudes of participants. Preaching is ineffective and often dysfunctional to program goals.

13. Program goals should be well established and communicated to participants before training begins.

14. Programs on different topics should be coordinated and linkages between training areas should be established to provide continuity.

15. Teachers and administrators should participate in programs together since they can reinforce each other to implement what is learned through training programs. Furthermore, teachers and administrators need to develop school-level norms that foster more effective desegregation-related practices.

No one type of inservice training format "works" across all school settings. Inservice training planners should be wary of adopting a program model without modification simply because that model has been thought effective in another school or district. Effective types of inservice training programs appear tailored to specific settings and address themselves to particular problems of those settings. Generally, however, effectiveness of inservice training may be predicated on participation in programs, not merely attendance at them. While no particular format can or should be recommended, it is important to note that the evidence suggests that training incorporating dialogue, in the form of discussion between participants and trainers and among participants themselves, is more effective than training through lectures or other means that preclude active participant involvement.

Evidence. Analyses by King et al. (1980) and case studies edited by Carney (1979b, 1979c, 1979d) of inservice training programs in desegregated school districts support the general strategies outlined above. In a survey of 16 desegregated school districts, King concludes that the most effective training programs are those based on a formal needs assessment, and furthermore, those which are well planned and evaluated. King defines a "formal" assessment method as one that is routinized, clearly understood by trainers and administrators, and can be described by most district staff members. Most of the training programs examined in this study did not include assessment, planning, or evaluation components.

Evidence from the Carney case studies suggests that each of the above strategies relates to effective inservice training in general. No one case study discovered all of the strategies; some indicate that one or more of the strategies are associated with effective inservice training and others indicate that the absence of one or more of the strategies contributes to the ineffectiveness of training. No quantitative data are presented in these studies. Conclusions are based on observations made by investigators and on faculty and administrator responses concerning perceived effectiveness of training.

Williams (1980) argues from the findings of surveys and interviews of school personnel, parents, and students in six southern states that no one strategy or set of strategies is adequate to facilitate successful inservice training strategies. Training should not be fragmented in content or short-term in duration. In addition, he asserts that training should involve all targeted personnel and foster colleagiality. Beckum and Dasho (1981a) stress that provision of concrete behavioral strategies is essential if inservice training is to have any long-term impact. In addition, they argue from evidence presented in their case study that all training programs should be predicated on needs assessments of school personnel and conducted on a school-wide basis.

Howey (1978) reports that teachers surveyed in a four-state study perceived job-related training more effective if conducted by colleagues rather than by university professors or other outside consultants. Teachers believed they were more sensitive to individual and school-related problems and concerns than were outside trainers. In addition, surveyed teachers preferred small group formats that allow discussion and problem-sharing to large lecture programs or courses held outside their schools.

National and local experts interviewed believe that teacher training should be on-going, inservice and preferably school-based, reflecting the needs of each school. One psychologist argues that training should entail "hands-on experiences" rather than sensitivity training or programs based on abstract or theoretical presentations. Another national expert, a sociologist who has conducted research and training, urges that inservice programs be mandatory for both teachers and administrators. This expert does not believe, however, that particular types of training or particular training topics should be mandatory for all desegregated or desegregating school systems.

Illustrative examples. Davila identifies factors attributed to effective inservice training in a northeastern "commuter town" district that enrolls about 6,300 students (Carney, 1979b). Forty-five percent of this student population is minority. Administrators and teachers in general viewed inservice training emphasizing instructional strategies and human relations as very effective in improving staff attitudes and instructional competencies Current training programs shifted emphasis from district-wide concerns to issues and needs of individual schools. Although training was mandatory for both teachers and administrators, participants were able to choose among topics designed to address individual concerns. These topics ranged from techniques to increase student motivation and achievement to increasing teacher self-awareness and empathy. Both desegregation-related and non-desegregation-related themes were incorporated in the overall training program organized by the district. There were, as a result, no perceived differences between desegregationrelated staff development programs and others offered. Teachers attributed the effectiveness of the training to its small group format that incorporated a "hands-on" approach to solving real problems they have in the classroom. They also thought that their active involvement in the total inservice training process (planning and implementation of the programs) increased the effects and benefits of the training to those who participated.

Gwaltney reports that a school district located in a large eastern industrial and commercial center attributed the effectiveness of its inservice training programs to similar factors (Carney, 1979b). In this larger district, where blacks constitute 48% of the enrollment, training concerned with instructional strategies and human relations was perceived effective by teachers and administrators because programs emphasized identification and discussion of individual teacher's needs. The format of the district's inservice activities was individual instruction rather than large group sessions. Classroom demonstrations were incorporated in the total training procedure that included workshops and discussion sessions. Trainers worked with participants in their classrooms, observing, conducting evaluations, and participating in actual instruction. Follow-up sessions were provided until teachers thought they had shown improvement in training areas. Teachers were given "hands-on" experience in practical skills that could be applied directly in classroom settings.

Types of Inservice Training

Types of inservice training for desegregation generally fall into four categories: 1) instructional methods, 2) curricula, 3) self-awareness, empathy, and interpersonal relations, and 4) discipline and classroom management techniques. In some instances, training involves topics about parent involvement in school affairs and developing human relations programs for students. Each of the four general categories of program content is addressed below with discussion of training to involve parents in school activities. Programs to train educators to plan and conduct human relations programs for students are excluded in this study for two reasons. First, almost all research on this topic relates directly to studies of inservice programs on curricula and interpersonal relations. Second, human relations programs can include almost any topic and improving relations among students is closely associated with instructional strategies used, curricula taught, and the ways teachers and administrators deal with students. Because efforts to improve human relations among students embody aspects of other inservice training discussed in this study, it would be redundant to single out this concern as a unique subject of training.

Although each of the topics of inservice training for desegregation is examined separately, their contents are not mutually exclusive. All, in fact, are related. Evidence from the research strongly suggests that schools develop training programs that deal with each of the topics examined here and that these topics be correlated with each other. One topic may be emphasized more than another, as established by individual school's needs assessments, but no one content area should be stressed at the exclusion of the rest. Such an approach is dysfunctional to overall program goals. For example, training teachers and administrators to administer discipline and classroom management techniques alone may prove counter-productive without programs in self-awareness of attitudes and behavior, empathy, and interpersonal relations.

In addition, topics of inservice training for desegregation relate to topics addressed in general inservice training for improving academic achievement and interpersonal relations among students, teachers, and administrators. The components of desegregation-related training are also similar to those of bilingual training programs. Common emphases include training areas such as assessment of learning needs and styles of students in heterogeneous classrooms and cultural awareness. In much the same way that processes of inservice training for desegregation are similar to general inservice training, program topics addressed in desegregation- related training correspond to those that should be presented in training related to other areas of the educational enterprise.

Inservice Training Related to Instructional Methods

This type of inservice training addresses instructional methods that may be used to improve student, particularly minority, achievement in classrooms that have become more heterogeneous as a result of the desegregation process. Such classroom heterogeneity may be reflected in student academic ability and achievement as well as in student academic preparation. Inservice training related to instructional strategies is often incorporated in programs on basic skills (reading and mathematics) and multiethnic curricula. This section deals with inservice training as it relates to instructional techniques; in the following section, inservice training as it relates to course content is discussed.

Often, teachers in desegregated schools are confronted with instructional situations in which techniques that are successful with homogeneous student groups no longer apply, or at least, are more difficult to implement. Inservice training that centers on specific instructional strategies to assist teachers in heterogeneous classrooms can provide practical options to outmoded instructional techniques and opportunities for resolution of problems that result from the implementation of new strategies. Examples of instructional techniques that are useful in heterogeneous classrooms include cooperative learning, small group or individual instruction, and team teaching. (For description and discussion of these and other types of instructional techniques, reference should be made to the section on cooperative learning in this volume, pp. 101-108.)

Classroom instruction does not take place in a vacuum. Adoption and application of new instructional techniques must be considered after assessment of the contexts in which new strategies are to be employed. Braun (1977) argues, for example, that failure to successfully develop and implement new instructional strategies may be due to a lack of perception and understanding of new ethnic and cultural contexts in desegregated schools. This argument suggests that inservice training in instructional strategies should be combined with programs designed to assist teachers and administrators understand the nature and characteristics of their changed student bodies.

While successful implementation of new instructional strategies may be dependent on an understanding of the ethnic and cultural contexts in which these strategies are to be applied, it appears that mere understanding of ethnic and cultural contexts is ineffectual in improving student achievement without provision of training in specific instructional strategies. Beckum and Dasho (1980) argue that inservice programs which seek to promote an understanding of cultural and ethnic differences are not enough to adequately prepare staff members to teach diverse student groups. According to this study, training must also provide concrete instructional strategies that address different academic needs of students in desegregated settings.

Another argument may be made that training in instructional strategies alone may have less impact than if this type of training is combined with training in new approaches to curricular content. Evidence exists which suggests that training in methods relates to improving teachers' attitudes toward students and teaching as well as to increasing student achievement. Yet other evidence indicates that improvements in these teacher-related and student-related outcomes may be enhanced if training in instructional methodologies is couched in training on new approaches to curricular content. This relationship is examined further in the discussion below on inservice training related to curricula.

Evidence. King et al. (1980) conclude that inservice training for teachers related to instructional strategies is effective in improving teacher competency and teachers' approaches to diverse student enrollments. Teachers and administrators surveyed in the study indicate that this type of training is important and most desire expansion of programs related to instructional technique.

While these studies find no data to indicate that inservice training in this area leads to improvement in student achievement, it seems reasonable to assume that improved teacher competency in instructional techniques leads to improvements in student achievement. It may also be that improved teaching techniques improve classroom management which may be related to positive changes in student discipline, student relations, and academic achievement.

The Institute for Teacher Leadership (1979) stresses that in order for teachers to meet the changing academic needs of students in a desegregated setting, they should undergo training in instructional techniques that match the different learning styles of minority and white students. The Carney (1979b, 1979c, 1979d) case studies also emphasize the need for and general effectiveness of inservice training in instructional techniques.

Several studies that examine the impact of inservice programs in nondesegregation-related settings suggest that training in specific instructional techniques does lead to improved student attitudes about learning and increased student achievement. Whitmore, Melching and Frederickson (1972) found evidence that student reading and math achievement in grades 2-7 improved significantly after their teachers had undergone inservice training in the areas of development and use of instructional objectives, implementation of concepts of learning modules and mastery tests, and employment of contingency classroom management techniques. Moore and Schaut (1976) conclude that training teachers to use instructional strategies to reduce student inattention increases student attention levels. This study suggests that such inservice training positively relates to improving student achievement inasmuch as increased student attention facilitates learning. In another study, Kruse (1976) found that students of teachers that participated in training oriented toward child-centered instructional strategies showed an average one year gain in reading skills across pre-test and post-test measures.

In a 1976 study, Fitzmaurice found that inservice training in diagnostic-prescriptive approaches to instruction not only produced higher levels of student spelling and reading achievement but improved teachers' attitudes toward students. This study suggests that a relationship exists between instructional strategies and teachers' attitudes in improving student achievement. It further suggests that teachers' attitudes may partially be determined by ability to employ successful instructional strategies. In other words, an implication of the Fitzmaurice study is that teachers' attitudes toward students may be improved by training that provides instructional methods that may be used in situations where other strategies have proved ineffective.

A survey of elementary teachers in Urbana, Illinois presents evidence that supports this hypothesized relationship between instructional proficiency and the attitudes of teachers toward their students. Marcum (1968) found that although teachers in this district generally favored desegregation, a substantial proportion expressed reluctance to work with minority students. The reported data suggest that this unwillingness was due not to racial prejudice but to teachers' beliefs that they were not qualified to teach minority students. Marcum's research implies that if teachers are provided training in instructional strategies for desegregation, feelings of inadequacy may be prevented and teachers may adopt more positive attitudes toward minority students.

In a more recent study, Chow, Rice and Whitmore (1976) argue that inservice training in tutoring skills for mainstreamed settings resulted in significant gains in teachers' attitudes toward academically disadvantaged students. Gains in student math achievement were attributed not only to the application of new instructional methods but to improvements in the attitudes of teachers. Teachers who did not receive training in these techniques showed no significant gain on the measures of attitude and their students exhibited no improvement in achievement.

Illustrative examples. King and Graubard identify in a case study outcomes of inservice training in instructional strategies through a teacher learning center (Carney, 1979b). The school district that implemented this program is located in a small, largely middle class eastern community with a student enrollment that is 62% white, 27% black, and 11% Hispanic. Staff development at three of the elementary schools and the district's middle school is coordinated through a teacher learning center directed by an outside consultant. The center offers structured inservice activities that focus on teaching educators about styles of learning and on enhancing their effectiveness in the classroom. Training includes discussion and demonstration teaching by trainers in the teachers' classrooms. Neither trainers not participants view the program as primarily related to desegregation, but they all believe the success of desegregation would be enhanced if teachers continue to learn to recognize and respond to a more varied range of learning styles.

Hunter found evidence of effective training in instructional strategies in a school district located in a western urban area of approximately 75,000 residents (Carney, 1979d). The student population of the district is 13,750, 50.5% of which is minority. Inservice training programs sponsored by a state-funded professional development center focus on skills training in five areas: using behavioral objectives, diagnosis and prescriptive instruction, lesson analysis, and application of learning theory through instructional techniques. The program is structured around five cycles. Each successive cycle is based on completion of the former. The cycles begin by emphasizing basic knowledge, understanding and application of effective instructional skills. The cycles conclude with on-site assistance to participants in the implementation of techniques. As the program becomes institutionalized, original participants become trainers inasmuch as they are utilized in the on-site assistance component. Most teachers indicate that the inservice program has been very helpful in making them feel more competent about supervising instructional processes. Most respondents also believe that improving teaching methods leads to improved student academic achievement, although test scores in this district have not shown an upward trend.

Inservice Training Related to Curricula

School desegregation often results in increased demands for educational quality. These demands translate into re-examination and alteration of existing curricula, development of multiethnic, multicultural and human relations curricula, and, perhaps, development of alternative "magnet" programs to meet the educational interests and needs of more diverse student bodies. A greater capability for teaching from a multicultural perspective is often required of all teachers regardless of what courses or grades they teach. As a result, teachers frequently express a need for inservice training that helps them make curricular transitions and provides them with instructional strategies that may be used to teach new curricula.

Often, inservice training in curricula goes hand-in-hand with training in instructional strategies. Programs that stress new content areas should be accompanied by training in implementation to facilitate application in the classroom. In other words, training related to new instructional techniques may be necessary to ensure that the new curricula are implemented successfully.

It would not be feasible to outline the content of the various types of new curricula that schools might adopt to facilitate desegregation. There is a large literature on basic skills instruction and bilingual education that is beyond the scope of this discussion. Some of the basic elements of multicultural, multiethnic and human relations programs have been identified, however, in earlier sections. Whatever new types of curricula schools choose to adopt, training should be extended to all staff members that are responsible for implementing these programs of study.

Of particular importance is that teachers and administrators be given the capability to identify curricula that are appropriate to their local situations and the particular needs of their students. This requires training programs to be 1) responsive to the needs assessments of the teachers and administrators involved, 2) sufficiently practical and specific so that teachers can know actual practices and materials that are thought to "work" in the implementation of chosen curricula, and 3) presented so that emphasis on practicality does not obscure the basic theories and propositions that underlie the content of new curricula. Without this third component, educators may find themselves saddled with specific programs that they think are appropriate while having no bases upon which to adapt and modify the curricula, much of which is prepackaged, to meet their students' needs and to know whether the adaptations they make are conducive to meeting the goals of the new curricula.

Evidence. King et al. (1980) indicate that inservice training in the area of curricula is common in newly desegregated districts. In general, training that emphasizes multiethnic and multicultural education, and to a certain extent basic skills, is thought effective for helping teachers adapt course content to the specific needs and interests of minority students. This study also indicates that training in curricula is more successful than training in interpersonal relations and discipline because curricular-related topics are perceived less value-laden. Often interpersonal relations and discipline programs are given a curricular emphasis to make staff training more value-neutral.

The System Development Corporation (1980) found that inservice training positively relates to increasing multiethnic knowledge of teachers and effective implementation of multiethnic curricula in the classroom. Case studies edited by Carney (1979b, 1979c, 1979d) provide further evidence that inservice education assists teachers implement multicultural curricula. In addition, they show that this type of training helps teachers identify instructional needs and interests of minority students and develop course content that meets those needs and interests.

Greene, Archambault and Nolen (1976) examined the impact of inservice training related to curricular content and instructional strategies on elementary teachers' knowledge of and attitudes toward teaching mathematics. The training investigated by the study was split into two sessions. The first was a summer session oriented toward approaches to math content; the second was conducted during the regular school year and emphasized implementation strategies. The study found that while significant increases in teachers' favorable attitudes toward teaching math were related to participation at both summer and regular school year sessions, the greatest determinant of improved teacher attitudes was attributable to the dissemination of new content approaches taught during the summer program. These findings, while not related to desegregated settings per se, do have implications for desegregation-related training. As suggested in the discussion of inservice training related to instructional methods, teachers need training opportunities to explore different content-area approaches that meet the educational needs of changed student bodies. Provision of new instructional strategies, while certainly helpful, is not enough to improve attitudes toward teaching unless these methods are couched in understandings of new approaches to content areas. It is reasonable to suggest, therefore, that teachers' attitudes toward their subject matter and, perhaps, toward students may best be improved by providing training incorporating both instructional strategies and approaches to content. This study by Greene et al. (1976) supports this contention.

Illustrative examples. Osthimer describes multiethnic inservice training conducted through an ethnic culture center in a midwestern school system of about 58,000 students (Carney, 1979c). Approximately 26% of the district's enrollment is minority. The overall purpose of this program is to train teachers in the theory, development and use of multiethnic curricula. In addition, emphasis is also placed on the professional growth of teachers who participate in the training. The program format centers around workshops led by outside consultants and in-district resource personnel. The first sessions emphasize discussion of the philosophy of cultural pluralism, separatism, and theories of ethnic and cultural mixing. Training focus then shifts to the development of specific sample lessons and instructing participants how to teach using multiethnic materials. Finally participants are helped to develop their own lessons to use with students. Although no follow-up component was built into the original plan of this training, some efforts were made to check individual schools and classrooms to see if multiethnic materials were being used and if their use had any impact on classroom activities. In order to correct perceived difficulties of integrating multiethnic emphases into the general curricula, additional training sessions were conducted on the basis of an informal needs assessment. This training component involves formulating lesson plans, implementing them in the classroom, reporting back to the training group, and then disseminating successful plans to other teachers.

In another case study, Osthimer describes inservice training in basic skills instruction conducted by a district located in a midwestern industrial center (Carney, 1979c). The district's student enrollment of 20,000 is 53% minority. The overall focus of inservice education in this district centers on curriculum-based and achievement-oriented training for desegregation, rather than more affective types of training. The district provides specific training in remedial instruction for designated teachers but offers programs to develop and implement comprehensive sequential basic skills training for teachers of all grade levels. This training is designed to encourage and allow for "diagnosis and individualization while maintaining multicultural, heterogeneous classrooms" (Carney, 1979c, pp. 14-15). Workshops are generally activity-oriented and provide materials for participants to take with them to their classrooms. They emphasize concepts of mastery learning, techniques of eliminating ability grouping in classrooms, and cooperative learning techniques in conjunction with the basic skills curriculum. Evaluations are conducted frequently and the results are used in developing future training programs.

Inservice Training in Self-Awareness, Empathy, Sensitivity, and Interpersonal Relations

There is general agreement that inservice training for teachers and staff in areas of student relations is a necessary component of desegregation. Most experts believe that increasing teacher selfawareness of their race-related attitudes and behavior is vital for improving student-teacher relations in desegregated settings. Furthermore, it is thought that increasing teacher empathy for and sensitivity to individual student's attitudes, behaviors, and instructional and psychological needs facilitates the development and implementation of more effective and less confrontive techniques in instruction, classroom management, and student discipline. Ideally, interpersonal relations and related training should sensitize teachers to enable them to better respond to the needs and behaviors of ethnically different students, as well as ethnically different colleagues. We use the term "interpersonal relations" rather than "human relations" to clarify a difference between educator-student, as well as educator-educator relationships, and more curricular and instructional programs instructional programs aimed at improving human or race relations among students.

A wide variety of approaches to interpersonal relations training exists in terms of both format and content and there is little agreement about which formats or content areas prove most effective. In general, however, three aspects of this type of training seem most important:

1. Training should concern itself with specific needs of individual schools and participants.
2. The effectiveness of training that seeks to change teacher attitudes and behavior appears to be directly related to a certain degree of preliminary self-awareness on the part of participants that interpersonal relations problems either exist or could exist in their particular setting and to the receptivity of training programs (Winecoff & Kelly, 1971). This receptivity is influenced by the degree to which participants believe training programs to be potentially effective.
3. Emphasis on changing attitudes is much less effective than training in behavioral responses to particular sources of interpersonal conflict or prejudice.

This last point should be stressed. Few people are willing to acknowledge that they are insensitive or prejudiced toward others, especially children of another race. Thus, working to change attitudes or increase sensitivity may seem unnecessary and even insulting to some educators. Interpersonal relations training should emphasize, therefore, the identification of positive behaviors in much the same way that training in teaching skills for math education focuses on theory and technique.

Evidence. Studies by Forehand, Ragosta and Rock (1976) and the System Development Corporation (1979) suggest that positive teacher racial attitudes are associated with enhanced minority achievement. This research is consistent with the "Pygmalion Effect" identified by Rosenthal and Jacobson (1968) and replicated in a large number of studies. Rosenthal's hypothesis is simply that the higher expectations teachers have for their students, the better students will perform in the classroom. While some retests of the Rosenthal hypothesis find no support for this theory, the emerging consensus of a very large number of studies is that the theory remains sound.

Acland (1975) identifies positive results of interpersonal relations training to improve teachers' attitudes and increase teachers' expectancies of minority students. The U.S. Commission on Civil Rights (1976) reports that interpersonal relations training is effective to alter teachers' and administrators' attitudes and behavior that lead to differential treatment of students by race which in turn might result in within-classroom or within-school isolation. Such training is viewed as a positive means by which teachers and administrators may become more sensitive to and express more empathy toward minority students' instructional and psychological needs. Also, the System Development Corporation concludes that interpersonal relations training is related to creating "harmonious and cooperative" school environments that lead to positive interactions between teachers, staff and students and to improved student racial attitudes (1980, p. II-41).

Several studies indicate that training in interpersonal relations improves teachers' attitudes and student-teacher interactions. In addition, some evidence exists that this type of training relates to gains in student achievement. Data from an assessment of an ESEA Title III inservice training project in Los Angeles (1974) suggest that training teachers in supportive and motivating techniques with all students not only improves teacher attitudes toward "low achievers" but accelerates the academic growth of those low achieving students. Hillman and Davenport (1977) found that interpersonal relations training in Detroit increased "cross-race" student-teacher interactions in the classroom. Before training, these types of interactions occurred infrequently. It was noted in this study, however, that while cross-race interaction had increased as a result of training, in certain instances, minority students began receiving a disproportionate number of interactions. While the study deems increased frequency of cross-race interaction beneficial, it may be that too frequent interaction is dysfunctional to improved student-teacher relations.

In other studies of local inservice programs, Redman (1977) discovered significant increases in teacher empathy toward minority students as a result of interpersonal relations training in Minnesota public schools. In an earlier study of this Minnesota program, Carl and Jones (1972) found that participation in training increased teacher flexibility, self-awareness of attitudes and behavior, and sensitivity to colleagues and students.

Schniedewind (1975) evaluated an inservice training program in classroom strategies for dealing with racism and sexism implemented by a Maryland school district. The program focused on analysis and modification of teaching behavior, interpersonal relations, and microteaching. When compared with a control group, teachers who participated in training showed significant increases in self-awareness and confidence that they could change their attitudes and behavior and make a positive impact on the learning environment. Participants also exhibited signs of growing trust in colleagues. Finally, participants showed increased awareness of racism and sexism while a control group of non-participating teachers regressed slightly on this measure.

Our interviews with local experts indicate that interpersonal relations training has merit for desegregating school systems. In Charlotte-Mecklenburg County, North Carolina; Riverside, California; Shaker Heights, Ohio; Tuscon, Arizona; Seattle, Washington; and Evanston, Illinois, local experts stated that training ranged from being very beneficial to being absolutely essential. At other sites, there was a general feeling that not enough is being done in interpersonal relations training or that the training that is attempted is not done well enough. Some indication exists that criticism by local experts of interpersonal relations training is not a function of the usefulness of these programs, but that the training conducted was poorly conceived, planned, or implemented. Generally speaking, training conducted after implementation of the desegregation plan is seen as more effective than that done to prepare for desegregation prior to implementation.

Illustrative examples. The assistant superintendent for state and federal relations in Shaker Heights, Ohio was very favorable toward the Equal Opportunity in Classroom program. This training is designed to sensitize teachers to the needs of low achieving students and to monitor teachers' interactions with these students in terms of time of response and proximity to child. This respondent indicated that teacher testimony attested to a favorable impact of this program. A Riverside, California ESAA coordinator indentified successful outcomes of a similar program.

Bailey (1978) found that interpersonal relations training in Pinellas County, Florida was positively related to improved student-teacher relations and improved student attitudes and behavior as evidenced by decreases in student suspension rates. The training program investigated by Bailey is a component of a program entitled Positive Alternatives to Student Suspensions (PASS) that was developed by the St. Petersburg, Florida school system. The training is designed to evolve more effective communication systems between teachers and students, between teachers and administrators, and among teachers themselves through participation in nonthreatening activities that emphasize positive verbal expression. All school personnel are encouraged to participate in this training with the rationale that cooperation of each staff member is necessary to effectively humanize the school setting. Training exercises are extended into the classroom; specific periods of time are set aside over a twelve week period in which trainers assist teachers to implement activities with students that encourage openness in communication, sharing, social awareness, and personal growth.

Hunter and Hyman found evidence of effective human relations training in a western metropolitan school district of about 11,800 students (Carney, 1979d). Approximately 20% of this district's enrollment is minority. Generally, teachers and administrators attribute decreases in racial tensions among students to interpersonal relations training of teachers. Inservice training offers a variety of programs with enough frequency so that they are available to all staff members. To facilitate desegregation efforts, a cultural awareness program was initiated. The overall goals of this training are to promote positive staff behavior towards minority students and to increase staff awareness of the positive contributions of minorities to the historical development of the United States. Topics of discussion provided by this program include cultural awareness, myths, stereotypes, self-concept, poverty, institutional racism, and religion. Hunter and Hyman conclude that respondents generally believe that this program was very effective in helping teachers reach minority students, for whom they usually held very low expectations, and to better understand the links between students' environments and cultures and their behaviors.

Inservice Training in Discipline Techniques

Training for dealing with classroom behavior, ranging from lessened respect for authority to personal threat, is a need increasingly expressed by educators. Improving capacities in these areas may reduce the use of unnecessary suspensions or felt needs for grouping techniques that may address discipline problems but foster resegregation. This type of training seems particularly important in schools that are undergoing initial desegregation.

Classroom discipline techniques are generally grouped into two categories: preventative techniques and punitive techniques. There is agreement among experts that effective techniques to either prevent or correct discipline problems involve components of effective classroom management, empathy, sensitivity, and concepts of fairness, equal treatment of students and due process. Inservice training in the areas of interpersonal relations and classroom management through instructional strategies help foster attitudes and create more comfortable classroom environments that reduce antagonistic relations which might lead to discipline problems. Furthermore, such training may facilitate teacher attitudes and behavior that may better assist them deal with occurrences of discipline problems in an equitable and nonresegregative manner.

While inservice training in instructional strategies and interpersonal relations relate to ways in which teachers handle discipline in their classrooms, teachers often express a need for programs that equip them with specific techniques for practical application. Often, inservice programs that provide such techniques are effective in helping teachers develop methods to prevent and reprimand disruptive student behavior. We wish to stress, however, that this type of training may be ineffective in the long-run without the provision of inservice programs in interpersonal relations and instructional strategies that help teachers improve their overall attitudes about and relations with students and adopt non-punitive measures that seek to alter student behaviors that result in disciplinary problems. Similarly, human relations programs that foster better relationships among students and instructional strategies that contribute to academic success of students will probably reduce the need for disciplinary actions.

Evidence. King et al. (1980) find evidence that teacher requests for conflict/discipline management training differ considerably between desegregated and non-desegregated school districts. Teachers in recently desegregated districts request this type of training far more frequently than teachers in non-desegregated districts or districts that have been desegregated for some time. King reports that staff development in discipline techniques contributes to successful desegregation because staff members believe it acts to prevent desegregation-related student behavior problems. In addition, teachers and administrators tend to believe that this type of training enhances teachers' morale and perceptions of competence because it disseminates methods to deal with student behavior problems with which teachers might otherwise be unable to deal.

Carney (1979b, 1979c, 1979d) also indicates that there is great demand for inservice training in classroom discipline techniques among teachers in recently desegregated school systems. In case studies of exemplary programs, discipline-related training is but one part of a more comprehensive training agenda that, in most instances, places primary emphasis on interpersonal relations. Although the relative effectiveness of training in discipline techniques cannot be evaluated apart from other aspects of inservice programs, there is indication that the success of discipline-related programs is directly related to effective interpersonal relations training.

The available evidence does not suggest that interpersonal relations training can take the place of training in areas such as classroom management. As Borg (1977) found, training solely designed to improve teacher and student self-concepts and student-teacher interactions has little impact on reducing mildly and seriously deviant student behavior. Training in classroom management techniques was found to reduce this type of behavior.

Borg's study does not imply that programs on discipline techniques preclude training in interpersonal relations. Data presented by Brown MacDougall and Jenkins (1972) suggest that while the solution to disciplinary problems lies in dissemination of classroom management techniques, eradication of disciplinary practices detrimental to learning seems to rest with providing teachers with training opportunities to assess their behavior in the classroom and improve their general interactions with students. This study found that teacher assessment of student ability to perform school-related tasks and propensity for good behavior in the classroom was related to student self-assessment on these measures. The findings of this study suggest that if teachers develop favorable concepts of students and those concepts are communicated through student-teacher interaction, student self-concepts will improve and discipline problems will decrease.

In a survey of research assessing the effectiveness of inservice training and staffing to help schools manage student conflict and alienation, Hyman (1979) found scattered evidence to indicate that inservice programs do help reduce student discipline problems. Hyman suggests that training in discipline techniques and interpersonal relations has a positive effect on changing teachers' attitudes toward students and that these improvements in attitudes are helpful in improving student self-images, reducing punitive teacher behavior, and decreasing incidences of disruptive student behavior. When these changes occur on a school-wide basis, the total learning climate is enhanced.

From our interviews with national and local experts, it appears that discipline is not a primary content area for inservice training even though this type of training is thought to be significant. In general, discipline-related programs implemented early in the school year are important because the norms for acceptable student behavior tend to be set by the third or fourth week of school. At the same time, follow-up training and support mechanisms for educators appear to be important to program success.

Illustrative examples. The Positive Alternatives to Student Suspensions Program of the St. Petersburg Schools appears to have effectively combined inservice training in interpersonal relations and school and classroom discipline techniques (Bailey, 1978). The program offers participants strategies for "crisis/remedial" interventions that include use of a "time-out" room to which students are sent to talk out their problems and devise plans to resolve their difficulties with a "facilitative listener." Another strategy of the program is the development of a student school survival course. Students with recurrent behavioral problems are referred to this course that meets once a week. Under the guidance of a skilled leader, students learn that it is possible to survive in school and to receive positive feedback from teachers, administrators and other students. Training in these crisis/remedial intervention strategies is accompanied by extensive interpersonal relations programs designed to prevent disciplinary problems. These programs focus on increasing teacher sensitivity to students' behavior and needs, and helping teachers devise means by which classroom environments and student-teacher relations may be improved.

Graubard and King identify other effective inservice training in discipline techniques (Carney, 1979b). In a newly consolidated school district of approximately 65,000 students, 30% of whom are minority, an elementary principal spends the greatest portion of inservice time training teachers on positive approaches to student behavior. During the first week of the school year, teachers work toward developing a consensus about the behavior-related rules of the school and getting students to "buy in" to those rules. Participants in this program believe the program was successful because it was directed by the principal who was more aware of their individual needs than would be a trainer from outside the school. Furthermore, teachers are able to contribute to the development of rules and discipline procedures which increase their dedication to and involvement in the program.

Inservice Training for Parent Involvement in School Affairs

Almost all experts on school desegregation stress the importance of various ways of involving parents in the schools and, more particularly, in the education of their children. At the same time, teachers and administrators appear to receive very little training on how to relate to parents and involve them more effectively in school affairs.

Desegregation can lead to special problems in parent-school relations and inservice training might focus on means by which these relations can be improved. Because desegregation invariably increases the heterogeneity of a school's student body, educators must relate to a different and more diverse group of parents. This suggests a need for teachers and administrators to understand differences in the behavior and values of parents with varied cultural and socioeconomic backgrounds. The kind of lessons educators need to learn about students they also need to learn about parents. In specific, communication skills, awareness of power and status differences, and techniques parents can use to help their children learn should be part of this type of training program.

Because parents may have to travel further to school after desegregation and into neighborhoods in which they may not feel comfortable, educators need to consider ways to involve parents other than those traditionally used. For example, parent-teacher conferences and Parent-Teacher Association (PTA) meetings might be held in different neighborhoods and teachers may want to visit homes rather than waiting for parents to come to school. Activities designed to include parents must be scheduled at times that do not conflict with work.

School desegregation may establish an adversarial relationship between groups of parents and the schools. Some parents, for example, who oppose desegregation may resist participating in school activities or be angry at the changes taking place that result from desegregation. Other parents, by virtue of their participation on advisory councils and in monitoring groups, may be seen as threatening by educators. These possibilities should be discussed, and ways of relating to parents who take a skeptical view of schools or who share in the traditional authority of educators, need to be developed.

Evidence. There is virtually no literature on this topic and few of our interviewees mention the matter. The suggestions above are based on inferences made by considering together the changes in teacher-parent relationships that may result from desegregation, the types of parent involvement urged by the strategies identified in other sections of this report, and the literature and perspectives on other aspects of inservice training.

Illustrative examples. The literature provides few examples of inservice training programs for school personnel designed to encourage parent involvement in school affairs. The Institute for Teacher Leadership (1979) does, however, describe two such programs. In 1973, the New Brunswick Education Association began a three year training program that involved both school and community participants. One component of this program was the training of teachers and local education association leaders to plan and implement parent-student activities to increase parent involvement in school affairs. The Denver, Colorado school system instituted a number of inservice training programs that included sessions designed to encourage parent-teacher communication and to train teachers in methods to stimulate parent interest in school curricula, parentteacher organizations, and other school activities.

Inservice Preparation for Principals and Administrative Staffs

Principals play an extremely important role in influencing the course of student race relations, achievement, and the nature of student behavior in school. Partly, this is because of explicit actions that principals must take to resolve matters that involve race. Examples of such actions are student discipline and assignment of students to classrooms. In addition, principals' racial attitudes and behavior become models for teachers and students in schools. The importance of the principal in setting a school-wide tone for race relations implies that there should be more inservice preparation for principals than is presently offered. While virtually all experts agree that principals are very important to effective desegregation (e.g., Beckum & Dasho, 1981b), very little such training occurs and very little has been written on how to prepare principals and other administrators for desegregation. It seems likely, however, that the same general strategies that apply to both the content and the character of teacher training discussed in previous strategies should be applied to training principals.

In particular, Davison (1973) proposes the following strategies for inservice training of principals and administrators:

1. Planning of inservice programs for administrators should include selected participants who might later serve as leaders of the training sessions.

2. Incentives should be provided to facilitate full participation. It should not be assumed that administrators are more eager to participate in training than teachers.

3. Program content should be designed to ensure balance and association between theory and philosophical understandings and their practical application to specific situations.

4. Inservice training for administrators will be more successful if it is designed to address specific needs of participants.

5. Training should emphasize concrete ways that administrators can consider, develop, and implement new administrative practice. Programs should not be critical of existing practice, but should provide means by which that practice may be examined and perhaps amended.

6. Inservice training for administrators should engender commitment to educational change and provide a knowledge base for such commitment.

School administrators in desegregating systems probably need further training in helping teachers to deal with stress, organizing the system of pupil transportation (which is more than a logistical problem), dealing with the media, grantsmanship, and, at the district level, managing external financial resources. Colton (1978) presents a comprehensive discussion of this type of financial management. Of course, other members of administrative staffs influence school climate. Assistant principals, deans, and guidance counselors should also undertake inservice training related to desegregation.

Evidence. Turnage (1972), Crain, Mahard and Narot (1981), Forehand and Ragosta (1976), and St. John (1975) all stress the importance of principals' behavior in influencing school climate. The safe schools study (National Institute of Education, 1978) found that differences among secondary schools in levels of student crime, misbehavior, and violence are strongly related to the degree of school-level coordination of discipline policy by the principal. The study concludes that a school's overall climate will be safer and teachers will like and perform better in school if principals see that all teachers follow the same general set of rules and that those rules are clearly communicated to students. In addition, principals must promote mutual reinforcement of teacher and administrator behavior and help teachers maintain discipline within their classrooms.

The System Development Corporation (1980) concludes that inservice training for principals in interpersonal relations has a positive relationship to improving overall school climate and to improving student racial attitudes. Findings suggest that such training promotes a harmonious and cooperative school environment that leads to positive interactions not only among students but among students and teachers, teachers themselves, and among administrators and teachers.

There is some evidence from case studies that principals indirectly influence the climate of their schools by the emphases they place on the inservice training of teachers (Carney, 1979b, 1979c, 1979d). Principals that express strong support of teacher training in interpersonal relations, instructional strategies, and discipline, and themselves participate in such training, further the improvement of school climate. In addition, involvement of principals in the training of teachers creates an atmosphere of cohesion and administrative support of teachers. Beckum and Dasho (1981a) support these findings in their case studies and argue that administrative leadership and participation is essential to the adoption of school-wide improvement. They further contend that principals must be informed and committed to training if desired outcomes are to occur.

The importance of the principal's role in shaping the school climate is emphasized in Gottfredson and Daiger's (1979) recent reanalysis of the

Safe Schools (1978b) data. The authors identify the following factors as important to minimizing interpersonal conflict within schools.

1. Principals should stress the importance of desegregation and improving race relations publicly and with conviction.

2. They should support teachers in their efforts to alter their behavior and manage their classrooms and prohibit teacher practices that discourage good race relations.

3. They should help draft and fairly administer rules of conduct for students and staff.

The development of capabilities of school principals to achieve these conditions seems to be an important goal of training programs for school administrators.

Illustrative examples. Carney found evidence that comprehensive inservice training involving principals, administrative staffs, and teachers in interpersonal relations, curricula, instructional strategies, and discipline effectively reduced problems in the desegregation of a midwestern unified school district of approximately 26,000 students (Carney, 1979c). Principals and other administrative staff members were required to attend training sessions that also emphasized bilingual education, multicultural education, and assessment of the district's progress in desegregating its schools. Retreats were held for principals and administrative staff members that concentrated on crisis management and interpersonal relations. In addition, administrators attended inservice training for teachers that emphasized multicultural education, instructional strategies, and interpersonal relations. Much of the effectiveness of this program was attributable to the comprehensive training of both administrators and teachers, separately and together.

In another case study, inservice training for principals and other administrators that focused on understanding of the district's desegregation plan and school-community relations was found to promote a smooth transition of three districts into a consolidated system (Carney, 1979d). Although most other inservice training programs in interpersonal relations, curricula and instructional strategies were designed for teachers, administrators were encouraged to attend. Formats of these programs varied and included workshops, seminars, university classes, and participant exchange.

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APPENDIX 6

The following article, taken from the February 26, 1978 Sunday News-Journal (Wilmington, De.), describes "anticipatory" flight during the three years prior to the start of busing, when white enrollment declined by 11,700. Then despite the article's implication that white flight "peaked early" (that is, before busing began), white enrollment then declined by nearly 18,000 over four years of actual busing, 1978-81.

White flight: Did it peak 2 years early?

By ISABEL SPENCER

White flight in the New Castle County desegregation area already has peaked, a number of educators believe.

And the phenomenon — relocation to avoid facing changes in the present neighborhood school system — has leveled off, eight months before court-ordered busing is due to begin, these educators say.

"Our hunch," whispered one suburban superintendent who did not wish to be named, "is that whoever is going to go has gone."

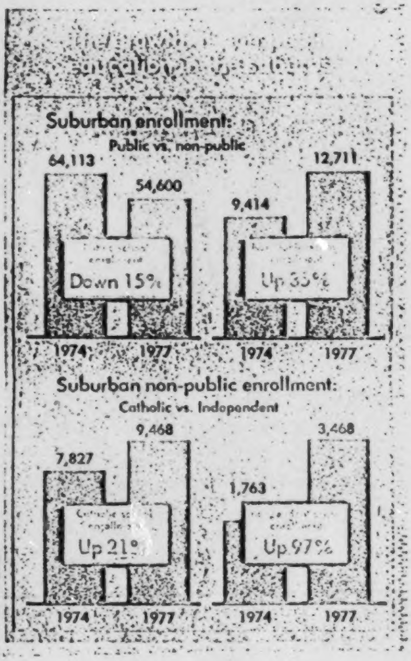
There are statistics to back up that view. For instance, the number of students from the desegregation area attending private schools increased 9 percent in the fall of 1976, but only went up 1.7 percent last fall.

Even educators who think white flight has slowed, though, are quick to qualify their views. The reason: statistics relating to white flight can say many different things. All it takes is a pencil and a calculator to make them whistle and sing.

Statistics on white flight not only are potentially misleading, but also they are hard to come by. Because figures on the destinations of students who withdraw from public schools are not required by the state, the methods of keeping track of departing students vary from district to district.

Nonetheless, one thing is clear — New Castle County's largely white suburban schools have lost thousands of students in the three years since a three-judge federal panel ruled that black Wilmington students have been unconstitutionally segregated from their white counterparts.

During those same three years, private and parochial schools in the area gained about 3,300 suburban students.



PUBLIC SCHOOL
PUPIL ENROLLMENT, NEW CASTLE COUNTY "DESEGREGATION AREA" AND PREDECESSOR COMPONENTS, 1970-81

Year	White	% White Change	Black	Hispanic	Other	Total
1970	69,206	—	15,263	(combined,	314)	84,783
1971(1)	70,173	+ 1.4	15,623	(combined,	557)	86,353
1972	68,827	- 1.9	15,782	(combined,	887)	85,496
1973	66,912	- 2.8	15,708	(combined,	1,184)	83,804
1974(2)	64,679	- 3.3	15,804	985	366	81,834
1975(3)	61,769	- 4.5	15,148	1,099	462	78,478
1976(4)	57,019	- 7.7	15,271	1,026	545	73,861
1977(5)	52,998	- 7.1	15,309	1,137	509	69,953
1978(6)	47,008	-11.3	14,891	1,115	544	63,558
1979	42,306	-10.0	14,547	1,111	495	58,459
1980	38,980	- 7.8	14,317	1,286	563	55,146
1981(7)	35,764	- 8.3	14,103	1,361	565	51,793

Source: State of Delaware, Department of Public Instruction Planning, Research, and Evaluation Division

(1) Case of Evans vs. Buchanan re-opened, 12/10/71.

(2) 7/12/74 Court rules that a unitary school system "had not been established" and orders submission of a "city only" plan and plans involving "incorporating other areas of New Castle County".

(3) 3/27/75 In a 2-1 decision, the court finds "a historic arrangement for interdistrict segregation" and indicates its preference for an interdistrict remedy.

(4) 5/19/76 Court proposes a plan combining eleven districts (City of Wilmington and ten suburban districts) into a single district. State's largest district (Newark), after earlier deliberations had indicated it would not be included, is included.

(5) 8/5/77 Implementation stayed pending appeal of remedy.

(6) 1/9/78 Implementation of racial balancing city-suburbs busing ordered to begin 9/11/78.

(7) Single district reorganized into four districts.

Note: In 1974, which is the comparative year for demonstrating subsequent white flight in this presentation, only some 3,200 of 64,679 white students were in the majority black Wilmington and DeLaWarr districts. Thus, virtually all of subsequent white flight has been from the nine majority white districts.

During all of the liability phase of Evans vs. Buchanan and for most of the remedy hearings, residents of the Newark district (the state's largest, with 15,829 white students in 1974) assumed they would not be included in the final order. White enrollment decline in Newark was only 0.7%, 1.8% and 3.3% during the years 1975, 1976 and 1977. Thus, the potential for anticipatory white flight in the county as a whole for the years 1975-77 was diminished. However, with the start of busing in 1978, with Newark included, white flight in that area was 10 per cent followed by 11.5 per cent in 1979. In addition, the low white public school enrollment decline for that district, 1975-77, was no doubt influenced by white movement into the district in anticipation of Newark not being included in the final order (see non-public school enrollment for that district in Appendix II, which indicates that there was white flight from public schools in Newark during 1976 and 1977.)

APPENDIX 7

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Anglo, Latino

Two Schools: Separate, Unequal

BY DAVID G. SAVAGE
Times Education Writer

Frost Junior High in Granada Hills and Nimitz Junior High in Huntington Park are both part of the Los Angeles Unified School District. That is about all they have in common.

Nimitz, with nearly 3,000 students, is the largest junior high in Los Angeles and is believed to be the largest junior high in the nation. Its mostly Latino student body goes to school on a year-round schedule, with many children jammed into small "temporary" bungalow classrooms during the hottest days of the summer.

Frost, with about 1,100 students this year, sits on a grand 24-acre campus with a panoramic view of the Santa Susana Mountains. Its five classroom buildings surround a broad and quiet courtyard and it has a vast playground beyond. Its halls are carpeted and softly lit, and the rooms are air-conditioned. Its mostly Anglo student body does not go to class during the summer.

The contrast between the two schools is starkly apparent and seems typical of a pattern in Los Angeles.

Latino parents and teachers in the East Los Angeles schools say the school board and the district managers have deliberately ignored the problems of the overcrowded schools. Top Los Angeles school officials contend that money and resources are allocated according to long-established formulas among schools.

But whether the result of deliberate policy, the two schools, representative of their areas of the city, are clearly separate and unequal.

"The discrepancy is obvious," said Mary Ledesma, formerly the deputy director of the school integration monitoring committee set up during the brief era of mandatory busing in the Los Angeles schools. "The valley schools have the better facilities and they get the better equipment and books. We get the second-hand stuff."

Dave Twetan teaches social studies in a bungalow at Nimitz, a classroom that is poorly lit and not insulated. It is cold in winter and stifling hot in summer, he said. When the district initiated the year-round schedule, teachers were promised their rooms would be air-conditioned. As it turns out, they have yet to get enough fans for all the rooms.

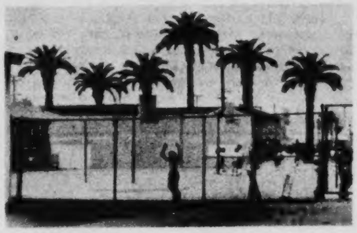
"You can count on it being 15 degrees hotter in here than outside during the day," Twetan said. "With 30 bodies in this room, it can be suffocating. It is 95 to 105 degrees in here most summer afternoons. There's no way they would stand for this out in the valley."

The school-by-school spending figures compiled by the school district tend to confirm some allegations of unequal treatment. The district spends several hundred dollars more per student for instruction in the mostly white San Fernando Valley schools than in the mostly Latino schools of East and Southeast Los Angeles. And it spends far more—often twice or three times as much per student--for other services such as custodial help, maintenance and utilities.

In the last school year, the district spent $1,539 per student for "instruction and related expenses" at Frost, according to the latest report from the controller's office. At Nimitz, the comparable figure was $1,289.

Even adding in federal funds, which are supposed to supplement the spending in poor schools, the difference remains: $1,791 per student at Frost and $1,515 at Nimitz.

When all other direct school expenses are included —for janitors, gardeners, maintenance and utilities—the difference approaches 50% per child. Last year, the district spent in total $1,472 per child at Nimitz and $2,093 at Frost.



Playground of Nimitz Junior High in Huntington Park. Most of students are Latino.

Times photo by Ken Hively

Nimitz is at the bottom end of the per-pupil spending scale for junior highs along with similarly overcrowded Latino schools such as South Gate and Gage junior highs. But Frost is far from the top. Other mostly white junior highs in the valley, such as Holmes and Mulholland, spent more than $2,600 per child.

Most of the predominantly black schools in the city have student populations and spending figures more like those of the mostly white schools. They also tend to get large amounts of federal aid.

For example, Markham, a nearly all-black junior high in the same administrative area as Nimitz, got $1,663 per child for instruction, not counting federal funds. This was $500 more than Nimitz and slightly more than Frost.

Los Angeles School Supt. Harry Handler denied that the spending differences among schools represented a pattern of discrimination, but rather reflected factors like the age of the faculty.

"If I were to guess, I'd say the average teacher at Frost or Markham has more years of service" and therefore a higher salary, said Jim Taylor, the district's associate superintendent for planning.

The schools with fewer students have about the same number of administrative personnel—principals, counselors and secretaries—as larger schools, which makes the per-student cost higher, he said.

The big gap in spending for other services reflects the differences in the size of the buildings and the campus.

"If there is less in square footage in the building to sweep and less area of lawn to be mowed, then you need fewer custodians and gardeners," Taylor said.

Even though Nimitz has about three times as many students as Frost, last year the district spent more in total for maintenance and operations at the Granada Hills school.

The result of this at Nimitz is halls and playgrounds strewn with trash, walls covered with graffiti, smelly restrooms and necessary equipment like photocopying machines broken for days on end.

Recently things took a turn for the better at Nimitz when teachers and students, fed up with having a messy school, organized a committee of volunteers to go in early to clean up trash before the start of the school day. Frost does not need such an extra effort. Its campus is kept clean by janitors. Once a week, the carpet is cleaned as well.

Frost is "like a college campus. It has a lot of area to be maintained," said Taylor, the district's top expert on school operations. "And it has air-conditioning, which runs up the utility bill. You also need an engineer to handle the air-conditioning. That's one reason you have an additional expense at that campus."

Taylor acknowledged there is "some merit to raising a question" about the apparent inequity in how custodial and maintenance help is allocated among the schools.

Frost Junior High School, set on 24-acre campus with view of Santa Susana Mts.

The Reagan Administration's top civil rights attorney said in October that his office will not seek new school desegregation orders, but it may file suit against "several" school districts that are not providing equal educational opportunities for all children within its boundaries.

Rather than trying to prove children are segregated by race or ethnic origin, the Department of Justice would contest the "uneven treatment at the educational level" of white and minority students, said William Bradford Reynolds, assistant attorney general for civil rights.

Although the department has not pursued such a case before, he said he would be "astounded" if the courts would not go along with the new approach to attacking school inequality.

"It will have to be demonstrated to the court there is a difference in the quality of education that is being provided to one group as opposed to another, and that there has been less attention by the school board in one area of the system as opposed to another," said Reynolds, who added that he was not aware of conditions in Los Angeles.

"When I was a kid, I'd always heard about ghetto schools, and I wondered how a school became a ghetto school. Here, I'm seeing how it happens," said Chuck Mistch, one of the many irritated and frustrated teachers at Nimitz who believe their school, once one of the best in the area, is sinking fast.

The Nimitz teachers are almost uniformly quick with a complaint. Some said the "sheer numbers" of students and the constant switching of the year-round schedule made it nearly impossible to run an orderly school. Others complained about the "filthy floors" or hallways that "smell like urine."

Mitsch said he had ordered routine supplies—paper, pencils, and books—last May. By December, they had not arrived, and he could not get an explanation for the delay.

District officials say each school gets an amount of money for books and supplies that is based on its enrollment. but it is up to the school to see that the right supplies get to the teachers.

Teachers in the overcrowded, year-round schools also have to switch rooms every 12 to 18 weeks because they are more teachers than classrooms. That means, they said, taking everything off the walls and packing up all their books and supplies.

"How would you like to move your office every 12 weeks?" asked one teacher.

"I can't even zero in on one thing anymore (that's causing the staff demoralization). It's worn me down," Mitsch said.

One Nimitz teacher, who asked not to be identified, said he and his colleagues were most frustrated by their inability to make things better.

"I don't know whether to blame the weak and incompetent administration here or the neglect by the school district. I guess I blame both," he said.

"The people downtown just don't seem to care much about these schools," another teacher said.

All the teachers interviewed, even the most bitter of them, tended to cite one plus at Nimitz—the children.

"We have good kids here," one said. "They're well-behaved. Most of them really want to learn." The graffiti and some of the debris comes from older students getting into the school grounds on nights and weekends, they said.

Nimitz Principal Roger Caukin, a veteran of eight years at the school and 33 years in the Los Angeles school district, says the administrators and teachers are making the best of a less than ideal situation. But he agrees with many of the teachers' complaints.

Maintenance is "too slow in coming," he said. The bungalows are "like ovens in the summer." And the needs of the overcrowded schools "are not taken into account."

But he will not issue a broadside complaint against the district management or the school board.

"The formulas for allocating maintenance and custodial services are being applied equally for us," he said, but then added that the formulas themselves are "not fair. They are based on the square footage, not on the number of kids, so we don't get our full share."

"Welcome to Fabulous Frost" is the way Principal Gerald Horowitz greets visitors, and the greeting proves not to be an exaggeration. With its spacious and well-landscaped grounds and the modern two-story classroom buildings, the school resembles a smaller version of UCLA.

The administrative building has the character of the waiting room in a doctor's office: a series of plaques neatly arranged on the walls, secretaries who are friendly and unhurried, the quiet broken only by the sound of piped-in background music.

"We've tried to create a wholesome, safe and creative atmosphere here at Frost," Horowitz said. Granada Hills was a center of anti-busing activism, he noted. When busing began, many parents bailed out, either moving to Calabasas or Thousand Oaks or putting their children in private schools.

"We have to constantly sell the school. We're selling quality education—that's our theme," he said.

The neat appearance of the campus, the absence of graffiti, the orderly classrooms and the frequent notes to parents are all part of an effort to persuade a "disrupted community to stick with public education," Horowitz said.

"The parents here tend to take education for granted. They expect and demand a good school," he said. "We take pride in keeping this school neat. I work hard at it. You also do it by example. If there's a piece of paper in the hall, I pick it up."

In contrast to Nimitz, the Frost teachers rarely have a negative word to say about the school or the district. Most instead prefer to talk about what their class is accomplishing.

Horowitz said his job is to create "an atmosphere conducive to learning. If you let a school get run down emotionally and physically, the kids respond to it negatively. They won't take pride in it anymore."

"We've only got these children for three years, and we're depriving them if we don't give them a good school," Horowitz said.

If demanding parents are a key to making Frost a good school, the lack of parental pressure may be part of the problem for Nimitz.

"If the parents in this community spoke up, this situation wouldn't continue," a Nimitz math teacher said. "In this district, you get what you'll accept."

Mary Ledesma, who has organized a parent lobby for education called "Espacio," agrees with the assessment.

"Nobody complains. Nobody speaks up," she said. "Our Hispanic parents won't go to the school board to complain. Many of them have come from Mexico, and they are very thankful for what they've got here."

But because of little parental pressure and political lobbying, the school board tends to ignore the overcrowded schools, she said.

"That school board spent four hours arguing about a school with 89 kids. But it has no time to talk about the problems of our schools," she said.

After a rancorous four-hour debate Dec. 14, the board voted to close four under-enrolled, mostly white schools.

"I think they deserve nice schools out there. We don't resent those good schools," Ledesma said. "But if we can have nice schools in the valley, we can have nice schools in the city too."

InterHigh School Council
4740 University Way NE
Seattle, WA 98105
December 24, 1981

The Honorable Don Edward, Chairman
Subcommittee on Civil and Constitutional Rights
United States House of Representatives
Committee on the Judiciary
Washington, D.C. 20510

Re: Hearings on school desegregation

Dear Congressman Edward:

As representatives of the 14,000-odd high school students in the Seattle Public Schools, we would like to encourage your support of federally-funded busing.

Our experience with the Seattle desegregation program has been a very positive one. We believe that education should be aimed at preparing students for life in a pluralistic, democratic, as well as realistic society. For this reason, education must continue outside of the classroom. The mingling of differing cultures, races, and economic classes, and the experiences we gain from that mingling are indispensable. Through busing we learn how to relate to people with whom we would otherwise not come in contact with until later on in life. The lessons which we learn from interaction with different types of people are invaluable to our education. It is both a privilege and an opportunity to participate in an integrated public education. This opportunity is one which we are truly grateful for.

Contrary to the scare stories which you may have heard about busing, the Seattle busing program has been entirely successful. It has not contributed to "white flight." Nor has it contributed to "mainstreaming" of our public schools. In fact, national test scores in Seattle have improved following the initiation of the busing program.

As students, we are used to being ignored. Yet we would like to remind you that students are the ultimate recipients of any action which politicians may take. We know that the experiences gained through desegregation programs allow us the opportunity for a superior education. We know that busing is worthwhile. In addition, we believe that we know better than anyone else can know, simply because we are the students and students are the consumers of public education.

Seattle students have the opportunity for an excellent integrated education and we would hate to see that change. We are asking for your support, because you have the vote, not us.

We would be glad to provide you with more information or to contact you at a later date.

Sincerely yours,

James Li Sandra Doyle

Sandra Doyle and James Li
Student Representatives of the InterHigh School Council
Seattle School District Number One

APPENDIX 8

THE CHICAGO SCHOOL DISTRICT DESEGREGATION SURVEY

A report on the survey prepared by:

National Opinion Research Center
6030 South Ellis Avenue
Chicago, IL 60637

Mary Jean Key
Senior Survey Director

December 1981

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APPENDIX A: Detail Report of Cases Excluded in Rate I, Table 1

APPENDIX B: Questionnaire

In November and December 1981 the National Opinion Research Center surveyed a sample of parents of children in the Chicago public schools about their attitudes towards desegregation. The study, done under contract with the Chicago Board of Education, was designed to provide data to be used in the preparation of a desegregation plan as mandated by the court.

The Questionnaire

Pretesting was on November 6 and revisions were agreed upon on November 7. Interviewers were trained November 11, the sample was delivered to NORC from the Board of Education on November 13, and interviewing began immediately. Day and evening shifts worked Sunday through Friday for four weeks ending December 10. The final tape, frequencies, and crosstabulations were delivered December 18.

The survey instrument was a revision of one used in a study of desegregation in Los Angeles in 1977. As in Los Angeles, interviewing was done by telephone, and a Spanish version of the questionnaire was prepared.

The Los Angeles questionnaire was revised for a pretest in Chicago. The basic format and content of the questionnaire remained, but there were alterations to accommodate differences between the two cities in ethnic makeup and existing and proposed desegregation efforts. A question was added about the respondent's country of origin to delineate ethnic identification. Questions referring to "Mexican Americans" in the Los Angeles questionnaire were changed to "Hispanics" to include the large numbers of Puerto Ricans and other Hispanics in Chicago.

On the basis of the pretest results some minor changes were made to clarify whether or not busing was included in a plan. The definition of household for the income question was clarified, and the country of origin question was enlarged to detect whether respondents were first or second generation in the United States. All revisions were translated into Spanish, and the entire Spanish version was reviewed for consistency.

The Sample

The sampling scheme was planned by NORC's technical director to produce a sample of parents randomly selected across the school districts. The selection was to be one-half white, one-fourth black, and one-fourth Hispanic, with a goal of about 1,200 completed cases. Because the Chicago Board of Education maintains a regularly updated computer file of students, it was able to execute the sample design and produce a list of selected children with birthdate, sex, grade level, school district, parent or guardian name, address, and telephone number.

Below are the sampling specifications provided the Board of Education:

1. The population consists of all students currently enrolled in the Chicago Public Schools with the following exceptions:

    - Preschoolers
    - Kindergartners
    - High school seniors
    - Those in special schools
    - Asian Americans
    - Native Americans
    - Those with unknown ethnic/racial identity

2. Divide the population into three subpopulations:

    - Blacks
    - Hispanics
    - Whites

3. Sort each subpopulation. First sort by district, then alphabetically by last name within district.

4. Calculate a skip interval for each subpopulation:

    - Divide total of black subpopulation by 30
    - Divide total of Hispanic subpopulation by 30
    - Divide total of white subpopulation by 60

    In case of a fraction, use the next smaller whole number.

5. Select eighteen random starting points smaller than the skip interval for each subpopulation.

6. Run eighteen lists from each subpopulation by applying the random starts and the skip intervals calculated for the respective subpopulation.

Data Collection

The sample consisted of eighteen independent replicates within each of the three ethnic groups. They were fielded in random order, and there was an effort to complete earlier replicates before beginning later ones. Then, as the proportion with available phones was identified, the appropriate number of replicates for each ethnic group was determined.

During this effort, as cases were discovered to have no phone or an incorrect or disconnected phone number, directory assistance was tried for new information. If that was unsuccessful, the Board of Education contacted principals of schools to get correct numbers, which in some cases were work or emergency numbers. This combination of efforts was very productive, resulting in a total of 91 percent good phone numbers in the white sample, 82 percent in the black sample, and 77 percent in the Hispanic sample. A combination of disconnected phones, no phones, wrong numbers, and unlisted numbers made up the remaining unavailable phones.

Daytime shifts had three to five interviewers and a supervisor. Evening and weekend shifts had from nine to fifteen interviewers and one or two supervisors. There was at least one Spanish-speaking interviewer on most shifts and, as the need for more Spanish-language interviews became apparent, interviewers were added.

Of the twenty interviewers, seventeen had at least two years experience as interviewers for NORC and had worked on many telephone surveys. Three bilingual interviewers were hired for this study and all had had experience in informal interviewing.

A total of 136 interviews were completed in Spanish. An additional 55 parents spoke only languages other than Spanish or English. Of these, 18 were interviewed through an interpreter. Four interviews were conducted with respondents whose children had transferred to private or parochial schools.

Quality Control

Interviewers were trained on the questionnaire through study of specifications for individual questions and the conduct of mock interviews with the supervisors. The first two cases of each interviewer were edited immediately and reviewed with the interviewer. Monitoring phones were used and each interviewer was monitored within the first two days and then at intervals during the field period.

Special attention was paid to the following items:

- Presentation of introduction
- Use of skip patterns
- Pacing
- Probing
- Asking questions as worded
- Fielding of respondents' questions

Few problems were detected during the monitoring and editing procedures. Brief conferences between individual supervisors and interviewers served to correct those problems.

The project supervisors were unable to monitor interviews conducted in Spanish. However, each of the four bilingual interviewers assigned to the project conducted a mock interview with a bilingual staff member with experience as a translator and interviewer trainer. Cultural nuances were written into the script to test the interviewers' abilities to communicate with respondents with a limited education. The standard NORC procedures were followed for questionnaire edits, checking for proper skip patterns, probes, and so forth.

Allocation to the sample categories (white, black, and Hispanic: illustrated in the following tables) was determined by the race of the sampled child as recorded in the Board of Education computer file. These designations were reported to the school by the parent. The questionnaire asked the race of the parent, which in a small number of cases differed from that of the child. Thus, when respondents are classified by race the distribution is slightly different than that for children. The 621 interviews in the sample of white children were completed by 599 white parents, 8 black parents, and 14 Hispanic parents. This discrepancy may represent actual difference in race of child and parent or guardian, or it may result from inaccuracy of reporting either by the parent or the school.

Completion Rates

The completion rates for each sample and the overall completion rate are indicated in Table 1. Two separate completion rates have been calculated·

> The net sample for Rate I was determined by deleting from the gross sample households in which the sampled children were no longer enrolled in a Chicago public school or were otherwise ineligible (for detail, see Appendix A).
>
> Rate II was determined by eliminating from the gross sample the category above, plus households for which no home, emergency, or work telephone numbers were available.

TABLE 1

COMPLETION RATES BY SAMPLE AND OVERALL COMPLETION RATES

Sampled Group	Gross Sample	Number of Completed Cases	Rate I		Rate II	
			Net Sample	Completion Rate (%)	Net Sample	Completion Rate (%)
White	841	621	823	(75.4%)	746	(83.2%)
Black	450	307	432	(71.0%)	350	(87.7%)
Hispanic ...	450	259	436	(59.4%)	331	(78.3%)
Overall	1,741	1,187	1,691	(70.2%)	1,427	(83.2%)

The completion rates are very high for a telephone survey and are in line with other high-quality research. If we were to assume that all phone numbers were known, the Rate I percentages for the white and black samples are quite acceptable. Recognizing that some had no phones, they are remarkably high, as shown in Rate II. Given the lack of available phones, the Hispanic completion rate improves to a respectable 78 percent.

After the "no phones," the second greatest loss to the sample was parents who could not be reached to be interviewed ("Respondent unavailable" in Table 2). Had there been more time, these potential respondents could have been reached. These parents were not interviewed because they happened to be in replicates fielded toward the end of the survey, and there is no reason to assume that they are, as a group, less likely to cooperate or statistically different from those interviewed.

Either parent could serve as the respondent. As seen in Table 3, in households with both male and female parents, women responded three times as frequently as men. This was to be expected as husbands often defer to the wife as a respondent, especially in matters pertaining to children and school. The outcome would have been more imbalanced if we had not instituted measures to increase male participation by (1) attempting fewer interviews in the daytime when many men are at work and (2) by asking to speak to "Mr. ____" when introducing the study.

TABLE 2

DESEGREGATION STUDY FINAL STATUS REPORT

Outcome	White	Black	Hispanic	Total
Completed cases[a]	621 (83%)[b]	307 (88%)	259 (78%)[c]	1,187 (83%)
Refusals[a]	44 (6%)	6 (2%)	10 (3%)	60 (4%)
No answer	4	6	7	17
Respondent unavailable[d] ...	40	29	53	122
Respondent ill/incapable ..	0	2	2	4
Language barrier[e]	37	0	0	37
Total net sample[a]	746	350	331	1,427

[a] Percentages and the net sample were calculated using conditions described in Rate II (see Table 1).

[b] The white sample included 18 completed cases conducted with interpreters and 1 case interviewed in Spanish.

[c] The Hispanic sample included 135 cases interviewed in Spanish.

[d] Valid phone numbers for the majority of these cases were not supplied by the Board of Education until one or two days prior to the end of the field period. As a result, many of these cases had only two or three attempted contacts.

[e] Respondent understood neither English nor Spanish and interpreters were unavailable.

TABLE 3

COMPLETED CASES BY RESPONDENT SEX AND HOUSEHOLD STATUS

	White	Black	Hispanic	Total
Single head household:				
Male	20	11	3	34
Female	132	168	72	372
Dual head household:				
Male	124 (27%)	28 (22%)	54 (29%)	206 (26%)
Female	345 (73%)	100 (78%)	130 (71%)	575 (74%)
Total completed cases	621	307	259	1,187

Conversion of Refusals

In the first half of the interviewing period, the refusal rate was 16 percent for the white sample, 5 percent for the black sample, and 7 percent for the Hispanic sample. In an effort to reduce the high number of initial refusals in white households, the interviewers' introduction of the survey was changed. Originally there was no reference to the Board of Education. When the study was introduced to the white households as being conducted for the Board there was a significant drop in the refusals--from 16 percent to 11 percent. After the conversion efforts described below that rate fell to 6 percent.

Below is a refusal conversion report by sample. Two experienced interviewers (one on the a.m. shift and one on the p.m. shift) were assigned initial refusals to attempt to convert to them to completed cases. The procedures for assigning conversions were as follows:

> Each refusal was allowed a "cooling-off period" of four days to a week depending on the availability of converters before a recontact was attempted.
>
> The conversion effort was concentrated on the white sample since the refusal rate in that sample was relatively higher than the minority sample rates. Attempts were made to recontact all households in the white sample where refusals occurred. Excepted were seven households where interviewers encountered extreme hostility. However, "soft" refusals in black households were recontacted.
>
> In the minority samples, "soft" refusals were recontacted. The effort was further limited in the Hispanic sample because all but two of the refusals occurred in Spanish-speaking households (and the Spanish-speaking interviewers were committed to getting first-try cases completed) and the majority of these occurred within the last four days of the field period.

TABLE 4

REFUSAL CONVERSION REPORT BY SAMPLE

	White	Black	Hispanic	Total
Original refusals	73	9	11	93
Total no contacts:	18 (25%)	5 (55%)	10 (91%)	33 (35%)
No attempts	7	4	10	21
Conversions attempted, No answer/ R unavailable	11	1	0	12
Conversions attempted with respondent:	55 (75%)	4 (45%)	1 (9%)	60 (65%)
Completed cases[a]	29 (53%)	3 (75%)	1(100%)	33 (55%)
Second refusals[a]	26 (47%)	1 (25%)	0 (0%)	27 (45%)

[a] Percentages in these categories were calculated using conversions attempted with respondent as the base.

Table 5 shows the point at which final refusals were encountered. "Contact refusal" refers to unwillingness of the person answering the phone to allow the interviewer to present the study and/or speak with a parent or guardian. The second and largest category is that of parents who understood the study but refused to cooperate, and the third is breakoff or termination of the interview by the respondent.

TABLE 5

FINAL REFUSALS BY CATEGORY

	White	Black	Hispanic	Total
Contact refusal/ respondent undetermined ..	12	0	1	13
Respondent refusal	28	4	7	39
Breakoff during interview	4	2	2	8
Total refusals	44	6	10	60

APPENDIX A

The following is a detail report of cases excluded in Rate I, Table 1:

Outcome	White	Black	Hispanic	Overall
Moved out of Chicago area ...	3	2	5	10
Moved to suburban area	2	0	2	4
Not living in Chicago[a]	2	5	0	7
Transferred to parochial school	0	1	1	2
Transferred to private school	1	0	0	1
Student no longer enrolled/ no record of enrollment ...	6	9	6	21
Case completed for pretest ..	2	0	0	2
Other[b]	2	1	0	3
Total	18	18	14	50

[a] No indication whether family moved to suburb or out of Chicago area (Board of Education Updates).

[b] The white sample included two adults. The black sample included one household previously interviewed for another child in the same family at a different school.

APPENDIX B

THE QUESTIONNAIRE

CHICAGO SCHOOL DISTRICT
DESEGREGATION SURVEY

SUMMARY OF RESPONSES

Conducted by the
National Opinion Research Center
for the Chicago Board of Education
November-December 1981

In November and December 1981 the National Opinion Research Center ("NORC") surveyed a sample of parents of children in the Chicago public schools about their attitudes towards desegregation. The survey instrument was a revision of one used in a study of desegregation in Los Angeles in 1977. As in Los Angeles, interviewing was done by telephone, and a Spanish language version of the questionnaire was used as needed.

The sampling scheme was designed by NORC to produce a sample of white, black and Hispanic parents of public school students in grades one through eleven, randomly selected across the 20 subdistricts of the school system. Follow-up measures were undertaken to ensure high completion rates. The gross rates (percent of completed interviews of all families in the sample) and net rates (percent of completed interviews among all families for whom telephone numbers could be obtained) were as follows: white, 75% gross, 83% net; black, 71% gross, 88% net; Hispanic, 59% gross, 78% net. Reasons for cases not completed include refusals (only 4%), no answer, respondent ill, and language barrier (37 cases, all white respondents).

A detailed report by NORC on the methodology of the survey is on file at the office of the Secretary of the Chicago Board of Education.

All responses are reported in this summary by percentage of all respondents within racial/ethnic groups. That is, all percentages read vertically and describe the proportions in which parents within a particular racial/ethnic group responded to a particular question. The tables do not read horizontally and do not attempt to tabulate the proportionate responses of all parents in the school district in the aggregate.

The percentages expressed in the following tables have all been rounded to whole numbers. The small numbers of respondents who did not answer certain questions have been omitted. Therefore the tables do not always total exactly 100%.

GENERAL ATTITUDES TOWARD DESEGREGATION

	White	Black	Hispanic
6. In general, how do you feel about desegregation in the public schools? Do you . . .			
Strongly favor	6	12	7
Favor	40	54	57
Oppose	23	18	9
Strongly oppose	21	10	9
Not sure	7	5	7
In general, how would you feel about your child attending a school where. . .			
8 & 21 . . . two-thirds of the students are white and one-third are black. Would you. . .			
Object	20	23	--
Not object	76	76	--
Not sure	2	1	--
9 & 22 . . . one-half of the students are white and one-half are black? Would you . . .			
Object	31	7	--
Not object	65	92	--
Not sure	2	1	--
10 & 23 . . . one-third of the students are white and two-thirds are black? Would you . . .			
Object	53	15	--
Not object	41	83	--
Not sure	3	2	--

	White	Black	Hispanic
11. . . . all of the students are black? Would you . . .			
Object	--	20	--
Not object	--	78	--
Not sure	--	1	--
12 & 17 . . . one-half of the students are black and one-half are Hispanic? Would you . . .			
Object	--	25	30
Not object	--	72	64
Not sure	--	3	4
13 & 18 . . . two-thirds of the students are white and one-third are Hispanic? Would you . . .			
Object	12	--	20
Not object	84	--	75
Not sure	3	--	4
14 & 19 . . . one-half of the students are white and one-half are Hispanic? Would you . . .			
Object	23	--	11
Not object	73	--	85
Not sure	2	--	3
15 & 20 . . . one-third of the students are white and two-thirds are Hispanic. Would you . . .			
Object	45	--	17
Not object	49	--	80
Not sure	3	--	2

	White	Black	Hispanic
16. . . . all of the students are Hispanic? Would you . . .			
Object	--	--	32
Not object	--	--	65
Not sure	--	--	2
24. . . . one-third of the students are white, one-third are Hispanic and one-third are black? Would you. . .			
Object	27	8	15
Not object	71	91	83
Not sure	2	1	1
25. In general, how do you feel about busing children of all backgrounds - white, black and Hispanic to achieve school desegregation? Do you. . .			
Strongly favor	1	9	3
Favor	11	37	35
Oppose	27	28 ⟩ 51%	34 ⟩ 50%
Strongly oppose	59	23	22
Not sure	1	2	5

VOLUNTARY PROGRAMS

In the next series of questions, we would like your opinion about an existing desegregation program.

26. Have you heard of the Permissive Enrollment Program, the voluntary transfer program in Chicago?

	White	Black	Hispanic
Yes	59	48	44
No	38	50	55
Not sure	2	1	1

27. The Chicago current transfer program desegregates schools by allowing children to transfer to other schools, with free transportation. Are any of your children participating in the voluntary busing program now?

	White	Black	Hispanic
Yes	7	7	4
No	93	92	95
Not sure	0	0	1

28. If your child can transfer to a good school about 20 minutes away, how likely is it that you will enroll your child in this voluntary busing program in the near future? Would you say. . .

	White	Black	Hispanic
Definitely	5	20	11
Probably	10	25	25
There is some chance	13	23	18
Unlikely	63	21	37
Not sure	2	2	4

		White	Black	Hispanic
29.	If your child can transfer to a good school about 40 minutes away, how likely is it that you will enroll your child in this voluntary busing program in the near future? Would you say. . .			
	Definitely	3	10	22
	Probably	4	19	18
	There is some chance	7	20	17
	Unlikely	77	39	53
	Not sure	1	1	3
30.	If a considerable number of black and Hispanic children were bused into your child's present school, would you. . .			
	Object	33	--	--
	Not object	65	--	--
	Not sure	2	--	--
30A& 30B	If a considerable number of white children were bused into your child's present school, would you. . .			
	Object	--	10	16
	Not object	--	86	81
	Not sure	--	1	1

MAGNET SCHOOLS

31. Have you ever heard of Magnet schools?

	White	Black	Hispanic
Yes	54	42	21
No	44	55	77
Not sure	2	1	1

A Magnet school is a desegregated school offering special in-depth studies or training in various fields such as the sciences, fine arts, languages or basic skills. The schools would provide free transportation for any student wishing to attend a Magnet school.

Following are types of Magnet schools being offered by the district. Please tell me how interested you are in each of these special schools for your children.

32. A math science academy

	White	Black	Hispanic
Very interested	18	34	34
Somewhat interested	32	45	37
Not interested	47	18	25
Not sure	3	2	4

33. A Humanities or Fine Arts Academy

	White	Black	Hispanic
Very interested	18	28	26
Somewhat interested	26	44	45
Not interested	54	25	28
Not sure	2	2	3

	White	Black	Hispanic
34. A Language Center			
Very interested	21	49	48
Somewhat interested	28	35	34
Not interested	49	14	15
Not sure	2	1	2
35. A back-to-basics school			
Very interested	32	48	49
Somewhat interested	25	36	30
Not interested	40	14	18
Not sure	3	2	3
36. Assuming these Magnet schools are in a predominantly minority neighborhood about 20 minutes away by bus, how likely is it you would send your child to a Magnet school? Would you say. . .			
Definitely	10	24	11
Probably	11	32	33
There is some chance	25	26	27
Unlikely	52	15	26
Not sure	2	2	3
37. Assuming these Magnet schools are in a predominantly minority neighborhood about 40 minutes by bus away, how likely is it you would send your child to a Magnet school?			
Definitely	5	14	6
Probably	6	23	19
There is some chance	11	24	22
Unlikely	75	37	50
Not sure	1	1	3

MANDATORY REASSIGNMENT

Here are some desegregation methods used in other cities. We are interested in your opinion of these techniques.

	White	Black	Hispanic
38. First, suppose the school board changes school attendance boundaries to achieve desegregation and your child is assigned to a school within walking distance of your home. Assume this school is half white and half minority and is located in a mostly white neighborhood. If your child is assigned to such a school, would you go along with this or not?			
Would	80	66	66
Would not	16	31	29
Not sure	3	3	5
A & B If this actually happens, will you . . .			
Definitely move to a suburban district	1	0	2
Definitely transfer to a parochial or private school	6	5	5
Probably move	1	1	1
Probably transfer	3	5	6
Chance of moving	0	0	1
Chance of transferring	1	4	2
Keep child out of school	1	2	2
Something else	4	12	8
Not sure	2	4	8

[Set forth below for information purposes is the form of sub-parts A and B, concerning nature of intentions and strength of intentions, as actually posed in the survey to those respondents in Questions 38-46 who said they would not go along with the described reassignment or were not sure. In tabulating the responses in this Summary, however, sub-parts A & B are combined for each question into a single table. The percentages expressed in the A&B table therefore constitute a breakdown or further specification of the negative and uncertain responses to the first part of the question.

A. (Asked of those who said they would not go along or were not sure.) If this actually happens, will you. . .

Move to a suburban district

Transfer to a parochial or private school

Keep your child out of school, or

Something else

B. (Asked of those who said they would move to the suburbs or transfer to private schools.) Would you say that you definitely, probably or is there some chance you would (move to a suburban district/transfer to a parochial or private school)?]

	White	Black	Hispanic
39. Now, suppose your child is assigned to a school within walking distance that is half white and half black and is located in a mostly black neighborhood. If your child is assigned to such a school, would you go along with this or not?			
Would	39	92	37
Would not	58	4	59
Not sure	2	2	3
A. & B If this actually happens, will you. . .			
Definitely move to a suburban district	4	0	4
Definitely transfer to a parochial or private school	20	1	7
Probably move	3	0	5
Probably transfer	8	0	8
Chance of moving	1	0	4
Chance of transferring	3	1	6
Keep child out of school	3	0	3
Something else	11	4	14
Not sure	5	1	7

	White	Black	Hispanic
40. Now, suppose your child is assigned to a school within walking distance that is half white and half Hispanic and is located in a mostly Hispanic neighborhood. If your child is assigned to such a school, would you go along with this or not?			
Would	49	52	80
Would not	47	44	14
Not sure	4	3	6
A.& B If this actually happens, will you. . .			
Definitely move to a suburban district	3	0	1
Definitely transfer to a parochial or private school	19	7	3
Probably move	2	1	1
Probably transfer	8	8	1
Chance of moving	0	0	2
Chance of transferring	3	4	1
Keep child out of school	2	1	1
Something else	8	20	5
Not sure	4	5	4

	White	Black	Hispanic
41. Suppose the Court requires the school board to adopt city-wide busing to achieve desegregation, and your child is assigned to a good school in another neighborhood. Assume this school is half white and half minority, and is located about 20 minutes away by bus in a mostly white neighborhood. If your child is assigned to such a school, would you go along with this or not?			
Would	43	67	69
Would not	55	32	28
Not sure	1	1	3
A & B If this actually happens, will you . . .			
Definitely move to a suburban district	2	0	2
Definitely transfer to a parochial or private school	23	5	7
Probably move	3	1	1
Probably transfer	8	6	2
Chance of moving	0	0	0
Chance of transferring	4	1	3
Keep child out of school	4	1	2
Something else	8	15	7
Not sure	5	3	7

42. What if that same school is located about 40 minutes away by bus in a mostly white neighborhood, would you go along with this or not?

	White	Black	Hispanic
Would	22	44	44
Would not	74	52	51
Not sure	1	1	3

A & B If this actually happens, will you . . .

	White	Black	Hispanic
Definitely move to a suburban district	2	1	1
Definitely transfer to a parochial or private school	28	9	11
Probably move	4	1	3
Probably transfer	13	9	7
Chance of moving	0	0	2
Chance of transferring	5	6	5
Keep child out of school	5	2	3
Something else	12	20	13
Not sure	5	6	9

		White	Black	Hispanic
43.	Now, suppose your child is assigned to a good school that is half white and half Hispanic, and is located 20 minutes away by bus in a mostly Hispanic neighborhood. If your child is assigned to such a school, would you go along with this or not?			
	Would	27	52	72
	Would not	71	47	25
	Not sure	1	1	3
A & B	If this actually happens, will you. . .			
	Definitely move to a suburban district	4	0	1
	Definitely transfer to a parochial or private school	29	10	6
	Probably move	3	0	1
	Probably transfer	13	9	2
	Chance of moving	0	1	1
	Chance of transferring	4	4	2
	Keep child out of school	4	1	2
	Something else	11	18	7
	Not sure	4	4	6

	White	Black	Hispanic
44. What if that same school is located about 40 minutes away by bus in a mostly Hispanic neighborhood, would you go along with this or not?			
Would	13	36	45
Would not	82	59	49
Not sure	1	1	3
A & B If this actually happens, will you. . .			
Definitely move to a suburban district	4	1	1
Definitely transfer to a parochial or private school	31	12	10
Probably move	3	1	3
Probably transfer	15	12	7
Chance of moving	1	1	3
Chance of transferring	5	6	3
Keep child out of school	5	1	3
Something else	13	22	12
Not sure	5	4	11

	White	Black	Hispanic
45. Now, suppose your child is assigned to a good school that is half white and half black, and is located about 20 minutes away by bus in a mostly black neighborhood. If your child is assigned to such a school, would you go along with this or not?			
Would	21	88	31
Would not	76	10	66
Not sure	1	0	2
A & B If this actually happens, will you . . .			
Definitely move to a suburban district	5	0	3
Definitely transfer to a parochial or private school	32	3	9
Probably move	3	0	6
Probably transfer	11	2	10
Chance of moving	1	0	3
Chance of transferring	5	1	6
Keep child out of school	4	0	3
Something else	12	3	17
Not sure	5	1	11

	White	Black	Hispanic
46. What if that same school is located about 40 minutes away by bus is a mostly black neighborhood, would you go along with this or not?			
Would	10	65	17
Would not	83	32	74
Not sure	0	0	2
A & B If this actually happens, will you. . .			
Definitely move to a suburban district	5	0	4
Definitely transfer to a parochial or private school	34	7	12
Probably move	3	0	6
Probably transfer	13	5	11
Chance of moving	1	0	4
Chance of transferring	5	5	7
Keep child out of school	4	1	3
Something else	14	10	15
Not sure	5	3	14

	White	Black	Hispanic
47. Referring back to the situation we were just talking about where your child is assigned to a good school which is half white and half black and is located about 20 minutes away in a mostly black neighborhood. If that actually happens, would you:			
Go along with it	11	43	15
Transfer to a Magnet school	16	26	21
Move within the city to an area not affected by the plan	10	9	13
Transfer to a private or parochial school	47	16	29
Move to a suburban district	9	3	8

GENERAL ATTITUDES

	White	Black	Hispanic
2. Generally, how satisfied are you with the quality of public services in your neighborhood such as police, fire protection, and sanitation? Would you say you are. . .			
Very satisfied	23	10	13
Satisfied	63	56	67
Dissatisfied	8	24	10
Very dissatisfied	3	9	5
Not sure	2	2	4

3. How likely is it your family will move in the next 12 months? Would you say. . .

	White	Black	Hispanic
Definitely	5	10	4
Probably	6	12	10
Some chance	10	13	19
Unlikely	76	62	63
Not sure	3	3	4

4. Now we'd like to know what you think of the public schools your children attend. Overall, do you think they are. . .

	White	Black	Hispanic
Poor	11	14	8
Fair	29	39	22
Good	40	35	45
Excellent	18	9	22
Not sure	1	3	1

5. Here is a list of things about schools that some people feel are important for a school to provide. Please think about the public schools your child(ren) attend and tell me if you are satisfied or dissatisfied with each one.

a. Teaching, reading, arithmetic science & other basic skills

	White	Black	Hispanic
Satisfied	77	70	82
Dissatisfied	20	27	15
Not Sure	2	2	2

	White	Black	Hispanic
b. Protecting the safety of children when in school			
Satisfied	73	66	76
Dissatisfied	24	31	21
Not Sure	3	3	3
c. Having after-school activities like sports and clubs			
Satisfied	43	46	63
Dissatisfied	37	39	21
Not Sure	19	15	16
d. Having good contact between parents and teachers			
Satisfied	83	78	88
Dissatisfied	14	19	8
Not Sure	2	2	3
e. Preparing children for a good job after high school			
Satisfied	48	47	67
Dissatisfied	27	38	16
Not Sure	25	12	18
f. Getting children ready to go on to college			
Satisfied	52	46	66
Dissatisfied	23	36	18
Not Sure	25	17	16

	White	Black	Hispanic
g. Developing good relationships with other students.			
Satisfied	82	79	86
Dissatisfied	12	17	8
Not Sure	6	4	6

APPENDIX 9

TESTIMONY

OF

JOSEPH E. JOHNSON

PRESENTED TO

THE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS

HOUSE OF REPRESENTATIVES

CONGRESS OF THE UNITED STATES

Oct. 29, 1981.

~~[illegible] 23, 1981~~

Honorable Chairman, Distinguished Members of the Committee, I am Joseph E. Johnson, Superintendent of the Red Clay Consolidated School District located in the New Castle County of the State of Delaware. I am a product of Delaware's formerly segregated school system, having attended every grade from 1 to 12 and was graduated from the only black high school in New Castle County. Our high school was for many years the only secondary school in the State of Delaware that black students could attend. Members of my graduating class rode the school bus from each of the school districts that are sending or receiving communities in the current desegregation area. My classmates were transported across district lines daily throughout their secondary school life. At least eleven members of the graduating class elected to move to the Wilmington, Delaware area from other parts of the State to live with friends and/or relatives just to get an opportunity to obtain a high school diploma. I don't harbor bitterness from these experiences. However, I cannot deny that my desire to see constitutional violations remedied and the inequities in educational opportunities corrected has been shaped by my earlier experiences in the schools of Wilmington and New Castle County, Delaware.

I testified in the U. S. District Court of Delaware for an inter-district remedy. Because I could not think of any other way of reducing racial isolation created by residential patterns or correcting the Court pronounced Constitutional violation, I supported the transporting of students from one location to another when necessary. I did develop and present a plan to the Court that would have reduced the transportation of children by 30%, but it was rejected because favored political subdivisions would have been lost, causing suburban children to cross into other suburban communities.

On July 1, 19~~81~~78, ten suburban districts and the school district of the City of Wilmington, Delaware were reorganized into a single desegregated school district in compliance with a United States District Court of Delaware's Order issued in the case known as Evans v. Buchanan. This inter-district remedy created a school district with more than half (approximately 64,551 students) of the State's public school population (approximately 111,034 students.) From the very beginning the new school district lacked popularity. High among the reasons is the fact that eleven school districts were terminated, causing many individuals to lose key administrative jobs and positions of high responsibility. Reorganization caused approximately 58 members of the community to lose elected positions as members of the boards of education when a new five member board was created to govern the entire area formerly controlled by eleven boards of education. The new district was considered to be too large and out of touch with the general community, especially in a State such as Delaware where the largest district was approximately 16,000 students. Thirdly, the reason given most often for dissatisfaction with the reorganized district was the Court-ordered desegregation plan that caused students to be transported from their suburban neighborhood to attend schools in the inner city environment. It didn't matter that suburban youngsters would be out of their neighborhoods for only three of their twelve years of schooling. Most of the parents in the city were just as adamantly against the desegregation plan because their children were required to be transported from their local school for nine of the twelve years.

I am not here today to articulate the merits of inter-district desegregation plans. It is not my purpose to rate the popularity of "busing" in the State of Delaware. Those areas will be left for comments from individuals from my community who have measured the climate and/or conducted polls using emotional, attitudinal or political yardsticks.

Today, I will attempt to assess the impact of the reorganization and desegregation of the New Castle County schools as an eduator who was directly involved on the inside of the NEW district's operation. In forming my conclusions, it is hoped that my biases will be overcome by the use of factual information that is currently a part of the public record. As requested, I will give my assessment from an educator's point of view of the progress within the schools and comment on the decline of public school enrollment.

The reorganization of the New Castle County Schools has been effective and has reduced the racial isolation of minority students. The process has not had a detectible adverse impact on the education of all of the students within the district. After three years, those schools whose performance scores were high prior to implementation continue to remain high. Those schools were students normally perform at lower levels continued to be the schools with lower averages. The scores, however, have improved in each of the three years. This is not to say that there are not individuals who believe that the addition of minority or urban students to the suburban classroom has caused the instructional programs to deteriorate. But a comparative study developed within the district showing disparities in achievement levels between minorities and non-minorities indicated that in some communities minority students were performing at or above the achievement rate of non-minorities while in other communities the minority students were performing at a lower level. These data helped to change opinions and remove erroneous racial perceptions. From an educational point of view the New Castle County School District reorganization and desegregation effort has been and continues to be a successful program. Despite the fact that the top administrative staff spent a great deal of time responding to legal and other non-educational concerns resulting from the unpopular Court-ordered busing plan, the operation of the district continued at a high level.

School level administrators and professional staff put aside their political views on desegregation, reorganization and "forced busing" and worked together to help students progress in the classroom. With few exceptions, teachers supported the instructional program and worked with all students without regard to race or ethnic origin. Educational growth is evident and learning is taking place.

Although the greatest support for the initial plan came from urban areas, there has been continuous and strong support for the New Castle County School District from all segments of the community. There have been isolated moments of racial unrest, and on a few occasions direct confrontation between racial groups. But, the district has not had the explosive problems that other large districts experienced when the students from different racial groups came together in the same locations.

It is fair to say that a high degree of racial harmony exists in our schools. Students and staff are interacting and working together.

One problem that must be overcome is the aspect of classroom discipline. Students from various family structures and communities have different perceptions of what is permissible. Their views of the importance of education are different and this diversity increases friction between those with high expectations and those who come from families who have gained very little from the educational system.

As far as the New Castle County school problems identified earlier, the issue of largeness has been remedied through a July 1, 1981 reorganization. The desegregation area has been divided into four smaller autonomous school districts. The four new districts now have a total of 28 elected school board members where the unpopular large district had only five appointed members. The Red Clay Consolidated School District is one of the four districts. This change has already rekindled new support for the public schools and improved the chances for continued success of the instructional programs.

Looking at the overall performance, the New Castle County School District achievement test scores have risen during each of the three years of the reorganized school district's existence. Information recorded at the State Department of Public Instruction (Appendix A) reveals that the New Castle County students' test results were above the national average in each of the areas tested at all grade levels. They also perform equally as well and in some cases better than other Delaware students outside of the desegregation area.

The reorganization of the school district gave the administration an opportunity to pull together an instructional services component that was able to take a mandate from the State Department of Public Instruction and develop an instructional program with a strong emphasis placed on the basic skills program. Students profited from the redesigned program and the achievement test scores show progress.

As a result of the reorganization, many of the schools were able to upgrade program and equipment because of an increased tax base and added new resources to the instructional program.

The school district has maintained the programs that were available before the change to the new structure. Student needs are being served and the instructional program remains competitive. The district has been in a financial dilemma and unable to raise the tax rate. The community heavily defeated a tax referendum. This district just began the fourth year without an increase in the general tax rate. This alone will be more harmful to the schools' program than desegregation or reorganization.

Student decline in enrollment is a problem throughout the school districts in this country. The birthrate is lower and young people are graduating or leaving to enter the work world. Some students just quit school as they have for all of my years in education. When desegregation arrives in a school district the term "white flight" is added to the picture. Usually adjectives such as "massive" are included to intensify the situation. To justify the concept some point in time is identified and every former student who was in the school district is counted to stress that the population decreased because of desegregation. In New Castle County schools there has been a loss of student population because of "flight." We cannot deny this fact. But people are not abandoning the public schools in "massive" numbers.

Observing the enrollment count for the last eleven years by including the initial enrollment totals for the 1981-1982 school year, the trend has been toward a long-term decline from the component school districts in New Castle County schools. Projected losses were here before the apparent issuance of a Court order. In the 1976 and 1977 school years, the enrollment decline including all reasons was 5.6 percent and 4.9 percent, respectively. In the first year of desegreation, 1978, and in 1979, the student decline increased to 9.0 percent and then down to 8.0 percent. Last year, 1980, the enrollment decline was back to 5.3 percent of the total population. Initial figures for the present school year appear to support a feeling among educators that the district is beginning to stabilize. The population decline should be under 5.0 percent when the final student count is taken on September 30, 1981.

Although the public school population has declined by significant numbers during the period from 1975 to 1979, an interesting fact to note is that non-public schools in Delaware did not increase by similar numbers. Using a report from the Department of Public Instruction during the period from 1975-1979, the New Castle County public schools had an enrollment decline of 19,486 students or 23.5 percent, but the non-public schools only increased by 3,962 students. Looking at 1978, the first year of implementation, the county population declined by 6,227 students and the non-public schools of Delaware only increased by 1,237 students.[1]

Many students entered schools over the State line and would not be counted in Delaware private school totals. But much of the decline can be attributed to birthrate, general school-leavers and graduates. The New Castle County experience can be favorably compared to a national trend in decline of student enrollment. A National Center for Education Statistics Bulletin[2] reports that "opening fall membership (enrollment) in public elementary and secondary schools in the 50 states and the District of Columbia decreased by 3.3 million pupils (7.2 percent) between 1970-1978." The bulletin further reports that only "enrollments in 10 states increased while membership in the remaining 40 states and the District of Columbia decreased." Most of the decreasing states are not in a school desegregation program.

In looking at the major decline in New Castle County, it is difficult to determine what has had the greatest impact, the reorganization of the districts, closing a large number of schools, or the removal of students from their neighborhood schools. One area that appears to be low on the list of most people is the minority population added to the building.

In my opinion many parents decided to leave the school system at the beginning of the desegregation process not because of a lack of confidence in the educational system, an unwillingness to accept minority students in the schools or the unwillingness to put their sons and daughters on a bus to attend schools away from the home area. Most of the students who left the public school systems are now being transported to schools far from their homes and are in classrooms that have minority students in attendance. Just about all of the students who left at the beginning of implementation left schools that already had a minority population in attendance.

The greatest concern expressed by parents was the fear of the unknown, the possibility that there would be massive resistance and violence within the buildings. Parents were quite aware of public reaction to desegregation plans in other large cities around the country. The feeling that their sons or daughters may be locked into a situation that may harm them or jeoparidze their safety was not one that the parents were willing to accept. Many parents were disenchanted with the lack of decisive action on the implementation phase of the desegregation reorganization project. Throughout the previous school year and during the summer there was the constant threat that the process may take place or that a stay order may be issued. As many as 11 schools were closed, redesigning the feeder patterns for the students within the school district. There was the constant feeling that the single district would be reorganized again and more schools would close and unrest would continue over a long period of time. At the beginning there was an uncertainty of a teachers strike. Eventually the teachers did in fact remain out of the classrooms for approximately five weeks. All of this uncertainty and multiple changes in the system caused people to take their children to other schools.

A study by the New Castle County Research, Evaluation and Planning Department reveals that 491 of the students who entered private schools during the period of September, 1978 to January, 1980 had returned to our classrooms. (Appendix B) Because of the calm year 1980-1981 and the feeling that the districts have been returned to community control, I feel that many more students will return.

Our district has continued to produce more merit scholars than all of the other schools in the State. Our students continue to score near the top on national college entrance exams.

There is good reason to believe that good planning and strong leadership, plus the latest reorganization, has stabilized our schools. Now we should be able to move away from desegregation problems and concentrate fully on the task of educating children. People can look at the New Castle County and see an educational program that withstood both reorganization and desegregation and maintained a healthy public school system.

TABLE 5

MATHEMATICS
AVERAGE SCORES FOR DELAWARE SCHOOL DISTRICTS *
(Regular and Special Education Combined)

	Grade								
District	1	2	3	4	5	6	7	8	11
Appoquinimink	59.2	61.2	56.5	57.6	55.3	58.2	58.0	57.1	52.7
Caesar Rodney	62.7	60.8	60.9	58.4	58.9	61.5	62.5	61.9	56.6
Cape Henlopen	64.3	61.1	59.7	58.9	57.6	58.0	57.8	53.2	53.5
Capital	59.5	56.5	58.6	58.3	58.3	52.6	54.1	55.6	55.2
Delmar							57.4	58.7	54.5
Indian River	64.4	63.5	59.1	57.5	58.8	63.0	57.4	51.7	48.9
Lake Forest	60.3	57.0	56.1	61.4	57.2	56.8	54.4	52.5	48.8
Laurel	65.2	58.9	50.4	56.7	51.2	49.3	51.1	51.2	44.9
Milford	64.1	59.1	56.8	54.3	56.9	55.3	57.8	56.3	53.6
New Castle Co. **	60.7	59.7	58.3	56.8	56.0	56.1	55.9	55.1	55.8
NCC Voc-Tech.									48.8
Seaford	60.0	60.2	55.9	57.4	54.5	57.7	60.3	57.2	56.6
Smyrna	61.0	57.4	59.0	58.9	58.9	51.4	55.4	53.8	47.3
Woodbridge	57.9	55.7	54.7	52.6	49.9	53.4	54.0	53.9	47.2

TABLE 6

TOTAL BATTERY
AVERAGE SCORES FOR DELAWARE SCHOOL DISTRICTS *
(Regular and Special Education Combined)

	Grade								
Districts	1	2	3	4	5	6	7	8	11
Appoquinimink	62.4	62.9	57.8	58.4	56.4	57.1	57.3	56.2	51.8
Caesar Rodney	62.4	61.2	60.7	60.6	59.7	60.8	60.7	59.9	56.8
Cape Henlopen	64.3	64.5	60.8	58.2	58.6	57.1	56.1	50.7	51.8
Capital	58.0	56.8	57.4	58.5	57.0	55.3	54.2	55.3	51.9
Delmar							55.6	55.8	53.5
Indian River	63.2	61.7	60.0	57.7	58.7	59.8	54.9	52.0	48.5
Lake Forest	62.1	60.9	55.1	61.1	57.3	56.3	53.1	50.6	46.6
Laurel	58.6	57.5	59.4	56.0	53.1	51.1	50.3	49.0	46.0
Milford	60.5	59.2	57.9	56.3	57.4	55.7	56.7	55.8	49.7
New Castle Co. **	59.1	60.1	58.0	56.5	56.7	56.0	55.3	55.0	56.2
NCC Voc-Tech.									46.5
Seaford	58.3	58.0	55.0	56.2	54.2	58.0	58.8	54.9	52.4
Smyrna	57.7	57.4	56.8	58.8	58.3	54.2	55.6	56.1	47.3
Woodbridge	54.1	50.8	52.8	51.7	51.0	53.0	51.4	53.3	48.1

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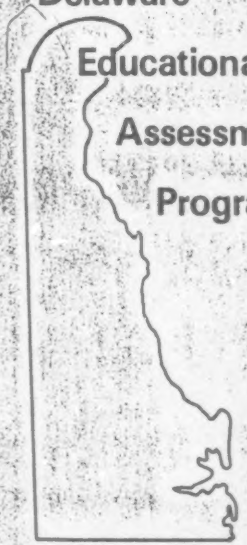
* The national average for the Normal Curve Equivalent scale is 50.0.

** This district is now divided into the Brandywine, Christina, Colonial and Red Clay Consolidated School Districts.

APPENDIX A

Delaware Educational Assessment Program



1981

Statewide Test Results

Delaware State Department of Public Instruction

APPENDIX B

NUMBER OF PRIVATE SCHOOL STUDENTS
WHO HAVE RETURNED TO AND ARE CURRENTLY IN
THE NEW CASTLE COUNTY SCHOOL DISTRICT
PERIOD INCLUDED
SEPTEMBER 1978 - JANUARY 1980

DISTRICT SUMMARY	K	1	2	3	4	5	6	7	8	9	10	11	12	TOTAL
AREA 1	2	18	14	4	7	10	18	14	9	11	6	1	1	115
AREA 2	9	19	7	5	9	11	7	14	5	8	14	3	1	112
AREA 3	2	26	21	10	7	32	17	41	6	8	14	9	-	193
AREA 4	-	16	5	7	9	8	4	5	6	4	3	-	1	68
AREA 5	-	1	-	1	-	-	1	-	-	-	-	-	-	3
TOTAL NCCSD	13	80	47	27	32	61	47	74	26	31	37	13	3	491

New Castle County School District
Research, Evaluation & Planning
2/11/80